UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------x
UNITED STATES OF AMERICA,

versus 05 CR 60(NGG)

VINCENT BASCIANO,

DEFENDANT. U.S. Courthouse
Brooklyn, New York
----------x
April 13, 2011
9:30 a. m.

TRANSCRIPT OF TRIAL

Before the HONORABLE NICHOLAS GARAUFIS, USDJ

APPEARANCES

Representing the Government: Loretta E. Lynch
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Eastern District of New York
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STEPHEN FRANK, ESQ.

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Proceedings recorded by mechanical stenography. Transcript produced by computer-aided transcription.

(In open court, outside the presence of the jury.)

THE COURT: Please be seated, everybody.

(Defendant enters the courtroom.)

MR. GOLTZER: Good morning, Judge.

THE COURT: Good morning.

(Defendant enters the courtroom.)

THE COURT: Case on trial.

Appearances?

MS. MERKL: Taryn Merkl, Nicole Argentieri, Jack Dennehy, Stephen Frank for the United States, Your Honor. Also at counsel table are Special Agent Robert Yeplaar and Paralegal Samantha Ward.

THE COURT: Good morning, everybody.

MR. GOLTZER: George Gotlzer, Richard Jasper, Ying Stafford for Mr. Basciano, who is present. Good morning, Your Honor.

THE COURT: Good morning. All right. A few housekeeping matters.

First, with respect to all of the submissions to the Court that have been emailed to the Court during jury selection, I'd like those placed up on ECF, so that we don't lose track of them, and please get that done by the weekend.

MS. MERKL: No problem.

MR. GOLTZER: There were a couple of them under seal.

THE COURT: Well, just advise which you would like to have remain under seal, and we'll decide because --

MR. GOLTZER: Okay.

THE COURT: -- the decision as to whether to place something under seal is something the Court has to consider and decide. All right?

The other -- another request, it's a request of the Court, the court reporters and I dare say probably the witness, that Ms. Merkl please slow down --

MS. MERKL: I know, Your Honor.

THE COURT: -- because you have a tendency to talk quickly, and as I age, it's more difficult for me to catch words that -- if you talk too fast. And I know it's an occupational hazard of being a New Yorker, but please slow down. It will help everybody --

MS. MERKL: I will do my best, Your Honor.

THE COURT: -- particularly the Court reporters. I appreciate your attention to that. Okay?

MS. MERKL: (Nods head affirmatively.)

THE COURT: Third, there was an issue that came up yesterday at sidebar having to do with something that the witness testified about, and it's at -- in the transcript at page 4882, lines 14 through 25, is that right?

MS. MERKL: I believe so, Your Honor. Ms. Argentieri actually prepared the letter.

MR. GOLTZER: We got the letter at about one o'clock in the morning last night, indicating that we apparently from our vantage point back here --

THE COURT: Now, you're talking too fast.

MR. GOLTZER: It appeared that we had misheard it because of where we were and the low voice of the witness. So we withdrew the objection in a letter.

THE COURT: Right. However, now the government tells me that you didn't mishear it, is that it?

MS. MERKL: That's correct, Judge. Everyone at counsel -- everyone at our counsel table and counsel themselves heard Mr. Massino testify that he gave this code to Basciano and Indelicato because they were pros.

MR. GOLTZER: If we heard correctly, then the issue is still open. All right. I checked the transcript because I was way back here and thought I might be the among, the stenographer is right here --

THE COURT: Have you seen the government's letter to the Court?

MR. GOLTZER: No, I've not.

THE COURT: Why don't we do this. If you have it, why don't we put this over until a break and then we can resolve it then. The witness is going to be on the stand for a while. There's no need to resolve it at this moment. The jury is waiting. You haven't read the letter and we'll

proceed.

MR. GOLTZER: Okay, thanks, Nicole.

THE COURT: Okay. And you have the reference to the transcript page in the government's letter, so you can turn right to it. All right? Are we ready?

MS. MERKL: Yes, Your Honor.

THE COURT: Let's bring in the witness, please.

Ms. Merkl, this is on prosecution laptop, is that because you're going play tapes?

MS. MERKL: Yes, Your Honor. We just did a test with Mr. Brightman. Everything seems to be working.

THE COURT: All right. Thank you.

(The witness takes the stand.)

THE COURT: Please remain standing.

THE WITNESS: Good morning, Your Honor.

THE COURT: Good morning.

Let's bring in the jury.

MS. MERKL: Your Honor, just one --

THE COURT: Just one moment.

MS. MERKL: Just so there's less clutter, the jurors don't need their screens they just need -- we're just playing the audio.

THE COURT: You don't need the screens this morning?

MS. MERKL: No. We're just going to be playing audio.

THE COURT: Well, it will be easy for them to get in and out if we just put the screens in the side containers.

Mr. Goltzer? Mr. Jasper?

MR. JASPER: Yes, Your Honor?

THE COURT: Is there any objection to putting the binders at the jurors' seats now or would you like them distributed when the actual tapes are played?

MR. GOLTZER: No, it's fine. Whatever is easier for the Court.

THE COURT: All right.

MS. MERKL: Your Honor, with regard to the transcript binders, you could just the advise the jurors they're not to flip to any other transcripts --

THE COURT: Right.

MS. MERKL: -- other than the transcript they're indicated to flip to, and also we did do the redactions of course per the Court's order. And we would appreciate some sort of brief instruction that certain portions of the tape -- certain portions of the transcript may appear to be missing that's due to an order of the Court. They're irrelevant. You just don't speculate about what's there -- that type of instruction.

THE COURT: I will be happy to do that.

MR. GOLTZER: That's agreeable to the defense.

THE COURT: Thank you very much.

MR. DENNEHY: Did we number them?

MS. MERKL: Yes, we did.

MR. DENNEHY: We numbered the binders, so the jurors get the same binder every day.

THE COURT: Why don't you speak more loudly, so the other side can hear you?

MR. DENNEHY: We numbered all the binders, so the jurors get the same binder every day in case they start to write in them.

MR. GOLTZER: I would suggest an instruction not to write in the binders.

THE COURT: All right.

MR. GOLTZER: The binders are not in evidence, and I'm not sure what the jurors are going to do in the jury room, so --

THE COURT: All right. Thank you. All right. Happy to do that.

THE COURT: Please bring in the jury.

(Jury enters.)

THE COURT: Everyone may be seated.

Good morning, members of the jury.

JURORS: Good morning.

(Jury enters.)

THE COURT: Everyone may be seated.

Good morning, members of the jury.

THE JURORS: Good morning.

THE COURT: Now, there are a few requests that I have. First of all, you have the transcript binders for some recordings that are going to be played for you today by the government.

A few requests: First of all, only open the binder when requested to do so and only to the transcript of the recording that's being played.

Second, please do not make any notes in the binders. Confine yourselves, if you're making notes, to your yellow pads.

And third, let me just give you an initial instruction that the transcript, well, two things. The transcript that you are going to use to follow along to recordings is not the evidence. The evidence is the recording itself. The transcript is being provided to you to assist you in understanding what's on the recording. However, if there's a difference between what's on the transcript and what you hear, the evidence is what you hear. Not what you read.

And finally, you will note that there are sometimes certain omissions or redactions in the transcript, and you may actually hear it also on the recording that something's missing. That is because the Court has ordered that certain portions, very limited portions of these recordings be taken out because they're not relevant to the issues that are being

decided by the jury in this case, and that they should not be heard by the jury. That was the Court's decision.

So, and you should pay -- it's of no concern to you, and you should not consider it in any way when you are considering the evidence in this case.

I think that covers it.

MS. MERKL: Thank you, Your Honor.

THE COURT: And I remind that the witness that he is still under oath, and, Ms. Merkl, you may continue your examination of the witness.

MS. MERKL: Thank you.

DIRECT EXAMINATION

BY MS. MERKL:

Q Good morning, Mr. Massino.

A Good morning, Ms. Merkl.

Q Just to orient ourselves, yesterday you testified that you made a consensual recording of your conversations with the defendant in the Metropolitan Detention Center?

A Yes, I did.

MS. MERKL: May I approach, Your Honor?

THE COURT: Yes, you may.

BY MS. MERKL:

Q Starting, Mr. Massino, with Government Exhibits 405 and 406, the CDs, do you recognize these CDs?

A Yes, I do.

Q And prior to coming to court today, did you have the opportunity to review the content of the, of those CD-ROMs?
A Yes, I did.
Q Did the CD-ROMs marked as Government Exhibit 405 and 406 contain a fair and accurate recording of the conversation that you had with Mr. Basciano in the two dates we identified yesterday at the Metropolitan Detention Center?
A Yes.
Q Just to be clear for the record, Government Exhibit 405 refers to January 3rd, 2005?
A 2005, and January 7, 2005.
Q So which one is January 7th, sir?
A That was a Friday.
Q Right, but which Exhibit Number, excuse me.
A Oh, 406.
Q And 405 is the January --
A January 3rd.
MS. MERKL: Your Honor, at this time, the government offers CDs 405 and 406 into evidence.
MR. GOLTZER: We do not object as to authenticity only, to the extent that there were prior rulings.
THE COURT: Right. Understood.
BY MS. MERKL:
Q Mr. Massino --
THE COURT: Government Exhibits 405 and 406 are

received in evidence.

BY MS. MERKL:

Q Mr. Massino, I'd like to direct your attention to Government's Exhibit, 405-T and 406-T. Do you recognize those two documents?

A Yes, I do.

Q Starting with Government Exhibit 405-T, did you have an opportunity to review that before you came to court?

A Yes, I did.

Q Are those your initials on the cover?

A Yes, they are.

Q And of the excerpts included in that transcript, are those, based on your review of the recordings, a fair and accurate summary of what's on the recordings?

A Yes, it is.

Q Are the voice attributions as to who is speaking when accurate?

A Yes.

MS. MERKL: At this time, Your Honor, the government would offer Exhibit 405-T as an aid to the jury.

MR. GOLTZER: No objection.

THE COURT: All right. Exhibit 405-T is received in evidence.

MS. MERKL: Thank you.

BY MS. MERKL:

Q The Government Exhibit 406-T, if you could turn to that.

A (Peruses document.)

Q Is that a transcript of the recording or excerpt of the recording contained on CD 406?

A Yes, it is.

Q Did you have an opportunity to review that transcript prior to coming to court today?

A Yes, I have.

Q Are those your initials on the front?

A Yes, they are.

Q Based on your review of the recording, is the transcript a fair and accurate recitation of what's on Government Exhibit 406, the recording?

A Yes, it is.

Q And are the voice attributions accurate as to who is speaking when?

A Yes.

MS. MERKL: Your Honor, at this time, the government would offer 406-T as an aid to the jury.

MR. GOLTZER: No objection.

THE COURT: All right. Government Exhibit 406-T is admitted into evidence.

MS. MERKL: Your Honor, I'm going take the original back from Mr. Massino.

BY MS. MERKL:

Q Mr. Massino I'm going leave you with this binder which contains a photocopy of these two originals.

A Thank you.

MR. GOLTZER: Taryn? Excuse me.

THE COURT: Sure.

MR. GOLTZER: (Confers with Ms. Merkl.)

Thank you.

THE COURT: You're welcome.

MS. MERKL: At this time, I'd like to ask the jurors and the witness to turn to transcript 405 in their binders, 405-T, and we provided headsets which will assist with the audio quality. People might want to put on their headsets.

BY MS. MERKL:

Q Mr. Massino, do you have a headset at your station?

A No, I don't.

THE COURT: Okay. Is it comfortable? Okay.

BY MS. MERKL:

Q Starting at the top of page one in Government Exhibit 405-T, we'll begin the recording.

(Audio played in open court.)

THE COURT: Could you take off your headsets, please.

MS. MERKL: You could take off your headsets, please.

BY MS. MERKL:

Q Mr. Massino, I'd just like to ask you a few questions about this first excerpt of the transcript.

Just to be clear for the record, I know you testified about this yesterday, but where were you when this conversation took place?

A I was on the roof in MDC in the rec cage.

Q What's a rec cage?

A When you get rec, you get an hour a day, and you're in a cage.

Q And directing your attention to page one of Government Exhibit 405-T, do you have -- everyone have page one. Line 25, there's an attribution. I'm sorry, line 23, there's an attribution to somebody with the name Tan, T-A-N, who is that?

A That's a correction officer at MDC Brooklyn.

Q And he states, "Joe, you're on TS, babe." What is TS?

A Total Sep.

Q What does that mean?

A That we can't be together in the same cage.

Q Were you alone in your cage?

A Yes, I was.

Q How were you able to speak with Mr. Basciano, where was he?

A He was in the cage over here, we're about 6 inches apart.

Q And was Mr. Basciano alone in this cage?

A No. There was five or six guys in the cage.
Q If I can now direct your attention, please, to page three of the transcript, government Exhibit 405-T. Direct your attention to line two, you mention an individual by the name of Flora. Who is Flora?
A Flora was one of my lawyers, Flora Edwards.
Q At the time that you made this recording, was Ms. Edwards aware that you attempting to cooperate with the United States government?
A No, she wasn't.
Q What was her role in regard to your defense?
A She was a lawyer on my case.
Q She was not representing you for the purpose of cooperation?
A No.
Q Why was that?
A She didn't know nothing that I was cooperating.
Q If I could now direction your attention to lines 23 and 24, you say to Mr. Basciano, excuse me, line 23 you say, "What do you," and Basciano replies, "I don't have a clue."
In this portion of the conversation, generally, what are you speaking about?
A We talking about what are we doing up here.
Q Up where?
A Up on nine south, in the hole.

Q In the special housing?
A SHU, Special Housing Unit.
Q If I can now direct your attention to page five. There's a passage in the middle, lines 13 through 18, Basciano describes an individual by the name of El. He states, "He's getting married at a catering hall that Louie Daidone has. Any time I want to use the phone, he'll give us a phone, plug it into legal."
Who is Louie Daidone?
A Louie Daidone was the boss of the Lucchese Family.
Q When Basciano communicated to you that this individual, L, would plug a phone into legal, what did you understand Basciano to mean by that?
A That if you had to make a call, he's a correction officer at MDC, he'll let you make a call.
Q Was it appropriate to use a phone to call through the legal lines?
A No, not at all.
Q If I could now direction your attention to page six.
Direct your attention to line four, you mention a Tony Green, who is Tony Green?
A Tony Green is a captain in the Bonanno Family.
Q And you mentioned him yesterday, what is his full name?
A Tony Urso.
Q If I could now direct your attention to page seven.

A (Peruses document.)
Q Line 19, you state, "death penalty." What was your reason for stating "death penalty" at that point in the conversation?
A I had the death penalty for murdering George Sciascia.
Q You were facing the death penalty at the time of this conversation?
A Yes.
Q If I could now direct your attention to the bottom of the page, lines 27 and 28, Basciano states, "There's a bad wire on this kid, there's paperwork on the kid that he's no good."
What did you understand Basciano to mean by that?
A We were in rec cages on the roof, and there was four cages. There's one, Vinny Basciano was in that cage, I was in this case, and there's a cage over here by the guy in there named Sassy. He was talking that he's no good.
Q When Basciano told you that that person was no good, what did you understand him to mean by that?
A That he was a cooperator.
Q If I could now direct your attention to page eight. At the top of the page, lines five and six, you ask, "What's going on out there?" And Basciano responded saying, What's going on out there?"
What were you speaking about, generally, in that portion of the conversation?

A There was a lot of static in the street, and I was getting feedback.
Q When you say static in the street, static with respect to what organization, or which individual?
A The Bonanno Family, my captains.
Q If I could now direct your attention to line 20 of the same page, page eight. You mention a Joe Saunders. Who -- just to refresh the jurors' recollection, who is Joe Saunders?
A Joe Sanders's is a captain in the Bonanno Family.
Q You mentioned that what you when you get back to the floor, you'll send word with Joe Saunders. How would you have accomplished sending word through Joe Saunders?
A Joe Saunders was on the floor. He's as captain and he would see his son on the visit, and they're both wiseguys in the Bonanno Family.
Q Through those individuals, you were able to communicate with others outside the facility?
A Yes.
Q If I could now direct your attention to the bottom of the page, lines 28 through 30. Basciano states, "I put Michael there."
What did you understand Basciano to be referring to the when he said Michael?
A Michael Nose.
Q If I could now direction your attention to page nine.

I'm sorry, Mr. Massino, what is Michael Nose's full name?

A Michael Mancuso.

Q Now I direct your attention to page nine. If I could direct your attention to lines eight and nine and then lines 11 through 13, you state, "Now, what they said, they don't believe that I put up Michael Nose there, that I put Fat Anthony there, which I didn't, you did it."

Starting with line eight, when you said "they don't believe," who is the "they" that you were referring to?

A My captains in the Bonanno Family, in the street.

Q Then direct your attention to line 11, you say "Michael Nose there." When you say "there," what were you referring to?

A He put Michael there as acting boss of the Bonanno Family.

Q When you say "he," who do you mean?

A Vinny Basciano.

Q Then you continued to say, that "I put Fat Anthony there, which I didn't do, you did."

Who is Fat Anthony?

A Fat Anthony was a captain in the Bonanno Family, whose last name is Rabito.

Q When you said, "there," what were you referring to with regard to Fat Anthony?

A Vinny Basciano made him acting consigliere of the Bonanno Family.
Q And then when the sentence continues, "Which I didn't, you did it." What did you mean by "you did it"?
A I had nothing to do with it. He did it on his own. He put them there.
Q Put them in the positions?
A Put them in positions without my okay.
Q And then lines 14 through 18, Basciano replies, "I know that." You say, "I didn't undo it, not to confuse everything," what do you mean, what are you discussing in those lines, lines 14 through 18?
A If you keep putting people there, and taking them down, you're going to confuse the whole family. They won't know what's going on. You can't do that.
Q So you determined not to remove them from their position?
A Yes.
Q If I could now direct everyone's attention to clip two, on page nine. We'll play that next. Starting at line 20.
(Audio played in open court.)
BY MS. MERKL:
Q If I could now direct your attention back to page nine. Do you have the page, page nine?
A Yes, I do.
Q Starting at line 21, you mentioned a Nicky, who is Nicky?

A Nicky Santora, he was a wiseguy in the Bonanno Family.
Q If I could you direct your attention to page ten, line seven. You state, "Nicky is a brokester," you're speaking about the same Nicky or a different Nicky at that time?
A The same Nicky.
Q What do you mean by brokester?
A He ain't got any money, he'll borrow money off people and he just forgets to pay.
Q I now direct your attention to the middle of page ten, line 17. You mention a Michael, and state, "Michael, I don't know nothing about."

Who are you referring when you mentioned Michael?
A Michael Nose.
Q Then on lines 22, Basciano mentioned Petey, "Petey told me."

Who did you understand Basciano to be referring to whether he said Petey?
A Petey's a captain in the Bonanno Family, his name is Calabrese, Petey Calabrese.
Q Does he have a nickname?
A Petey Rabbit.
Q And Basciano continues on line 23 with, "He says, Vinny, the guy upstairs, didn't sanction any of these guys getting straightened out."

Who did you understand Basciano to be referring to

when he used term "the guy upstairs"?
A They were referring to me.
Q Then on line 25, he uses the term "straighted out," what does that mean?
A They were making guys.
Q So when Basciano stated that Petey told Basciano that you didn't sanction these guys getting straightened out, what did you understand him to mean?
A They were making guys without running it by me.
Q On line 30, you state that "You have the okay for that," what are you were you referring to?
A They had the okay to make guys, but they had to be in the family for eight years, and he was making guy that's weren't around the family for eight years.
THE COURT: Could you just, for the jury's benefit, what do you mean by "making guys"?
THE WITNESS: Straighten them out, become good fellas in the Bonanno Family.
THE COURT: Thank you.
THE WITNESS: Sorry, Your Honor.
THE COURT: No problem.
BY MS. MERKL:
Q And you mentioned that in order to make a member of the Bonanno Family, they had around to be around the family for eight years, why was that?

A When I left, I put it you have to be in the family for eight years because Donnie Brasco infiltrated the Bonanno Family, and he was around for about three or four years, and they were going to make him. The only reason they didn't make him was because the books were closed.
Q So how did you arrive at eight years?
A I felt they're not going to leave an FBI agent in the family for eight years just to be become a wiseguy.
Q Who was "they" in that sense? The government?
A FBI, law enforcement, any law enforcement.
Q If could I now direction your attention to the top of page 11. Basciano states, "I did it, nobody else, I did it, Joe, just to get structure, Bo."

What did you understand Basciano to be referring to when he said "structure" in that context?
A Putting captains there, acting consigliere there.
Q What did you understand Basciano to be giving structure to?
A To the Bonanno Family.
Q And now I'd like to direct your attention to page 11, line 11, and we'll play clip three.

(Audio played in open court.)

BY MS. MERKL:
Q Mr. Massino, if I could direct your attention, please, back to page 11. The opening of clip three, lines 12 and 13,

you state, "Now I've got to pass my education to you, Randy, "You okayed it."

Who were you referring to when you mentioned Randy?

A Randy Pizzolo.

Q And when you stated "You okayed it," what were you referring to?

A He okayed to murder, to kill him.

Q Prior to your conversation on January 3rd, 2005, how had you arrived at that understanding?

A By talking to him.

Q Where?

A In the bullpen.

THE COURT: "Him" meaning whom?

THE WITNESS: Vinny Basciano, excuse me.

BY MS. MERKL:

Q I'm sorry, where did you speak with Basciano about the murder?

A The first time I spoke to him was a co-defendant meeting.

Q The first time you saw him was the bullpen?

A First time I saw him was in the bullpen, then we had a co-defendant meet.

Q And then if could I direct your attention to page 11, line 30, you mentioned, "You made Dominick."

Who are you referring to when you said "You made Dominick"?

A Dominick Cali.
Q You used the firm term "you made," what did you understand that to mean?
A He was supposed to be around us for eight year. I think at that time maybe he was around us for four year. He's just made him anyway, Vinny Basciano.
Q Back to His Honor's question, when you use the term, "you made," what do you mean by "made"?
A He made him a wiseguy in the Bonanno Family.
Q And line 32, Basciano replies, "Good man, Bo," what did you understand Basciano to mean?
A That he's saying Dominick Cali is a good man.
Q If I could now direct your attention to top of page 12, line one, you state -- Basciano stated, "I, I vouched for him."

Who did you understand Basciano to be referring to when he said "him" in that sentence?
A Dominick Cali.
Q And when he said "I vouched for him"?
A He put him up. He proposed him to be a wiseguy in the Bonanno Family.
Q If I could now direction your attention to line five. You state, "You used, not Dominick, what's his name."

When you stated "you used," what were you referring to?

A Who clipped Randy Pizzolo.
Q And Basciano replied with, "Anthony Aiello."
Who did you understand Basciano to be referring to?
A Anthony Aiello was a wiseguy in the Bonanno Family.
Q Does he have a nickname?
A Ace.
Q Have you ever met Ace?
A Never met him.
Q If I could now direct your attention to lines seven and eight, you continue, "You used Dominick to clip Randy and Joe Gambina, right, Joey Gambina."
Who are you referring to in this portion of the conversation, Dominick and Joey Gambina?
A Dominick Cali and Joey Gambina.
Q Prior to your conversation on January 3rd, 2005, how had you arrived at the understanding that Dominick and Joey Gambina were involved in the murder of Pizzolo?
A We had a co-defendant meeting, and it came up in the co-defendant meeting.
Q Then if I could direct your attention to lines nine through 12, Basciano replies with "No, all the BS, it was all F'ing no. It's all they have. I don't know what happened there, I'm not sure exactly what happened there. But I gave the order."
What did you understand Basciano to mean by that?

A Trying to tell me at this point, he doesn't know who did the shooting, but he gave the order to clip Randy Pizzolo.
Q When you use the term "clip," what do you mean?
A That's to murder somebody.
Q Now, if I could direct your attention to lines 16 and 17, you continue, "Now, they might think that that come from me. I got nothing to do with that."
What were you referring to when you said you had nothing to do with that?
A I don't want my family to think that I gave the order to kill Randy Pizzolo. I had nothing to do with it.
Q And Basciano replies with, "Right."
What did you understand him to mean?
A That he's telling me that I'm right.
Q That you have nothing to do with the murder?
A Nothing to do with the murder.
Q If I could now direct your attention to the bottom of page 12, start with clip four. And lines 29.
(Audio played in open court.)
BY MS. MERKL:
Q Mr. Massino, if I could now direct your attention to page 13, line 14, page 13, Government Exhibit 405-T, Basciano states, "Randy was an F'ing jerkoff, Bo."
Who did you understand Mr. Basciano to be referring to when he mentioned Randy?

A Randy Pizzolo.
Q Then on lines 15 and 16, you continued, "Yeah, but did it warrant, wait a minute, did it warrant the clip?"
What are were you referring to when you said "the clip"?
A Did it warrant a clip him to murder him.
Q If I could now direct your attention to lines 17 and 18, Basciano continues, "I tell you what, he goes into Villa Sonoma drunk with an F'ing pistol."
Are you familiar with Villa Sonoma?
A No, I ain't.
Q If I could now direct your attention to lines 20 through 25, Basciano continues. Actually, excuse me, I apologize.
Direct your attention to line 19, you say, "So why didn't you chase him?"
What did you mean by that?
A In other words, I didn't want -- it didn't warrant to murder him, just chase him. Why kill him?
Q If you could just refresh the jurors' recollection, what does it mean to chase somebody in organized crime?
A You chase somebody, I tell you to get out of here. This is your home, here's where you live, I'll send for you when I want. Now, get out of here. That you means you can't go any place. You belong to me you.
Q You can't go --

A You can't go to another family, correct.
Q If I could you now direct your attention to lines 20 through 25, Basciano states, "Joey C, Joe, you want to know why?"
What did you understand Basciano to be referring to when he said "Joey C, Joe"?
A Joe Saunders. He's a wiseguy in the Bonanno Family.
Q And then he continues on lines 21 through 25. "Because he's a danger, an F'ing dangerous kid, that don't F'ing listen. He talks stupid, he talks like act F'ing jerkoff. He's an F'ing, he's just an annoying, F'ing kid."
What did you understand Basciano to be speaking about whether he described the person who was an F-ing dangerous kid?
A Randy Pizzolo.
Q Now, if I could direct your attention to lines 29, you state, "Now, say Michael finds out and Anthony, hypothetically."
Who were you speaking about when you mentioned Michael in this sentence?
A Michael Nose.
Q And Anthony, which Anthony were you referring to?
A Fat Anthony Rabito.
Q If could I direct your attention to the top of page 14. You continue, "Now you're causing distension in the family.

Now, if they do what they want to do, or they, now what do we got?"

Who were you referring to when you said "they"?

A I was talking about Michael Nose and Fat Anthony Rabito.

Q And then you continue, "Then what do we got, we got, like, the Colombos. We got three different families."

What did you mean by that?

A If you're going to kill somebody, and you're not going to check with Anthony or Michael Nose, that's your panel, you put them there. You three gotta okay to murder to somebody, not just yourself. You'll have like the Colombos, they'll have three different families.

Q What had happened with the Colombo family to cause you to compare the situation to the Colombos?

A Started out they had a war in 1990, '91, two factions, then it became three factions.

Q So the family was divided?

A Yes.

Q If I could direct your attention to lines six through eight, Basciano states, "Michael is not going to do anything. Michael is not going to do an F'ing thing."

Who did you understand Basciano to be referring to with Michael?

A Michael Nose.

Q If I could now direct your attention to line 14 or page

14, we'll play clip five.

(Audio played in open court.)

BY MS. MERKL:

Q If I could direct your attention, please, back to page 14, Mr. Massino.

A (Peruses document.)

Q Do you have the page?

A I got it.

Q If I could direct your attention to line 15, actually lines 14 and 15, Basciano states, "Well, listen, I sent the word out to bump up Louie Electric."

Who did you understand Basciano to be referring to when he mentioned Louie Electric?

A Louie Electric was a wiseguy, and he wanted to make him a captain and I went along with it, and we bumped him up to be a captain in the Bonanno Family.

Q The term "bump up" is synonomous with promotion?

A It's a promotion to go from a wiseguy to a captain.

Q If could I now direct your attention to lines 20 and 21, Basciano stated, "Joey Gambina, I said straighten him out, Dominick wants to put him on hold."

What did you understand Basciano to mean?

A That Joey Gambina dogged when he clipped Randy Pizzolo. And he didn't want to straighten him out, he wanted to put him on hold.

Q What do you mean by dogged?
A He didn't pull the trigger. He wasn't one of the shooters. He dogged it.
Q If I could now direct your attention to page 15.
A (Peruses document.)
Q The passage beginning on line nine, Basciano states, "But you know the bad thing about that, Joe, the only problem with that, you have to have faith in one guy. If we're going to have faith in two or three guys, Anthony Rabito and Michael Nose. Do you have faith in me?"

Starting with lines ten and 11, when Basciano states, "The only problem with that, you have to have faith in one guy," what did you understand him to mean?
A What's he trying to tell me is he wanted me to have faith in him that he could do whatever he wants without checking with the panel.
Q When he mentions Anthony Rabito and Michael Nose, is that the same Anthony Rabito and Michael Nose you have been testifying about, the panel?
A Yes.
Q If I could now direct your attention to lines 19 and 21 of the next passage where you're speaking, when you state, say, "If Fat Anthony or Michael Nose don't like somebody, they want to kill him, they'll kill them," what did you mean by that?

A In other words, if you went on and you killed Randy Pizzolo and they know it, now if they decide they want to kill somebody, they don't to have check with you, or Michael Nose kills somebody and don't have to check with you, now what you got, you got three different factions.

Q If could I direct your attention to line 22, Basciano responds with "They had to check with me."

What did you understand Basciano to be referring to when he said "they"?

A Before they could make a move, he -- they had to both check with him.

Q Who is "they"?

A Fat Anthony Rabito and Michael Nose.

Q And then on lines 25 and 26, you state, "Yeah, but you don't have to check with them," Basciano stated "No."

What did you understand Basciano to mean by that, "No"?

A That he could do whatever he wants and he doesn't have to check with anybody, and he's saying no.

Q If could I now direct your attention to bottom of page 15. Basciano states, starting at lines 31 through 33.

"What I did, what I tried to do, Joe, I tried to give a structure, because everybody was all over the F'ing board."

When Basciano used the term "structure," what did

you understand him to mean?
A He trying to justify to me when why he put captains and the panel there.
Q What was the structure reference to, if you -- what do you understand it to be?
A Trying to tell me he put them there so he could show strength in the family.
Q If I could now direct your attention to page 16, top of the page, Basciano continues. "And what I did, by me talking the reins, I anointed myself, through you, as acting boss."
What did you understand Basciano to mean by that?
A He put himself the acting boss and then he sent me word. He didn't check with me, he did it, and then sent me word.
Q If you could direct your attention to lines three through seven. Basciano continues, "I made Michael acting bass and Anthony acting consigliere., I told everybody, nobody makes a move without coming to me."
What did you understand Basciano to mean by "I made Michael acting boss"?
A He put Michael Nose in acting boss and Anthony Rabito.
Q But at the time that he put Michael there as acting boss, what was Mr. Basciano's role, what was your understanding?
A Acting boss.
Q Who was Michael acting boss for?
A Vinny Basciano.

Q If I could now direct your attention to the line where Basciano states, four through seven, "I told everybody, nobody makes a move without coming to me."

What did you understand Basciano to mean by that?

A That nobody could move without touching bases with Vinny Basciano.

Q Now, I'd like to direct your attention to line 30 of page 16, and we'll play clip six.

(Audio played in open court.)

(Continued on the next page.)

DIRECT EXAMINATION

BY MS. MERKL:

Q Let me direct your attention back to page 16. Do you have the page, page 16?

A Yes.

Q Starting at line 30, you said, "Randy, I would have chased him."

Who were you referring to when you mentioned the name "Randy"?

A Randy Pizzolo.

Q Now, directing you to lines 38 -- I'm sorry that's at line 35, "To kill the guy it's crazy, because now you don't know talk on the street, now maybe Dominick heard about this guy Joey Gambina."

Who were you referring to when you mentioned Dominick?

A Dominick Cali, captain of the Bonanno Family.

Q And this Joey Gambina that you mentioned, who is that?

A An associate of the Bonanno Family.

Q And when you say, "Now, maybe Dominick heard about this Joey Gambina," what did you think -- who were you referring to?

A That he heard that he dogged it. He wasn't capable of clipping Randy Pizzolo.

Q I direct your attention to the top of page 17, Basciano

states, "That was ten, 15 years ago, bo. It's BS."

What did you understand Basciano to mean by that?

A There was a story about Joey Gambina, that he wanted to beat up his father. And I go on to tell him it wasn't ten or 15 years ago, it was two or three years before I came in. It was on Fresh Pond Road in the parking lot. And Sandro said, he gave him a dirty look. And I said to Sandro, "You're the wiseguy. Why didn't you crack him?"

Q When Basciano, you continue on line three, "No, don't believe that."

And Basciano states, "It comes from Sal, the ironworker," who were you referring to?

A Sal, the ironworker, is a wiseguy in the Bonanno Family.

Q And you continue to explain, "No, Sandro, Sandro."

Who were you referring to when you mentioned Sandro at line eight, page 17?

A Sandro is a wiseguy in the Bonanno Family.

Q If I could now direct your attention to page 18, lines 12 through 14, Basciano mentioned, "Right. And this kid over here could we let it wait longer? Do we have to do him? No, absolutely not."

In context of the conversation, what did you understand Basciano to mean by "this kid over here"? Who was he referring to?

A Joey Gambina.

Q When he said, "This kid over here who we let it wait longer," what did you understand him to be referring to?
A Not to make him a wiseguy in the Bonanno Family.
Q And you said "No, leave it alone." What did you mean by that?
A Not to do him.
Q Not to make him a made --
A Not to make him a wiseguy in the Bonanno Family.
Q Then continuing on to passage lines 16 through 19, Basciano continues, "Leave it alone. Dominick even said leave it alone. But as far as Louie the electrician, as far as Louie Electric, at this point it's a good move."
What did you understand Basciano to mean by "it's a good move"?
A We bumped him from a wiseguy in the Bonanno to a captain in the Bonanno Family. And he said it's a good move.
Q And then on lines 21 through 22, Basciano states, "Yes, and I order -- I sent word out there."
What did you understand Basciano to mean?
A He sent word out there to bump Louie Electrician up to a captain in the Bonanno Family.
Q Where is out there?
A Out in the street.
Q And based on what Basciano stated to you, you're understanding of where he was when he sent the word out to the

street?
A He was in jail, just like me.
Q If I could now direct your attention to page 19, lines seven and eight. Basciano states, "Well, Michael Nose is looking to shine now too."
What did you understand him to mean by that?
A He's trying to tell me now that Michael Nose, because he's not listening to him, that he wants to shine. He wants to be the main guy in the street.
Q When you say "Michael Nose isn't listening him," what do you mean?
A Nobody was moving until they hear from me. Nobody was taking orders from Vinny, at that point.
Q By January of '05?
A Yes.
Q If I could now direct your attention to lines 15 and 16, Basciano stated, "What happened is, you can't be afraid to be the top seat. I wasn't afraid."
What did you understand Basciano to be referring to when he said "top seat"?
A That he made himself the acting boss of the Bonanno Family.
Q I now direct your attention to lines 27 and 28. You state, "If they, you know, run this with fear, who's going to come and tell you anything?"

What were you referring to when you said "run this with fear"?

A If you got a position and you're the boss in the family, and you just want to kill, there's nobody that's going to come to you and talk to you. You got to let them know you got a big stick and you're capable of using it. And nobody's going to come to you otherwise.

Q When you say "this, run this," you're referring to an organized crime family?

A Running the family, the Bonanno Family.

Q If I could now direct your attention to page 20, line 17. Basciano stated, "I believe Anthony. I believe Anthony."

Who did you understand Basciano to be referring to in this portion of conversation, which Anthony?

A He's talking about Fat Anthony, Anthony Rabito.

Q If I could now direct your attention to page 21, lines nine through 11, you state, "I mean, it's hard. It was hard to talk, uh, uh, downstairs in the, in the lawyers' room."

What were you referring to when you mentioned it was hard to talk downstairs in the lawyer's room?

A When we had codefendant meetings, it's very hard to talk down there.

Q And the codefendant meetings were downstairs from where you had this conversation?

A MDC Brooklyn, yes.

Q If I could now direct your attention to lines 25 and 26. Basciano mentions "Joe Saunders' kid."

Who were, who did you understand Basciano to be referring to when he mentioned Joe Saunders' kid?

A Joe Saunders, Jr. is a wiseguy in the Bonanno Family.

Q If I could now direct your attention to the bottom of the page, starting at line 30. Basciano starts, "There was a kid, we were in position, that we looked ridiculous, Joe. And these guys were out there doing whatever the F they wanted to do. And I thought, this kid would have been a good wake-up call for everybody, because everybody had a bad thing to say about this kid."

When Basciano stated that he thought this kid would have been a good wake-up call, who did you understand him to be referring to by "this kid"?

A He was talking about Randy Pizzolo.

Q And when he stated, he thought what about Randy Pizzolo would have been a good wake-up call for everybody. What was your understanding?

A When he killed him, it's a wake-up call to the rest of the family, that this thing, this life is for real.

Q Which life is for real?

A The Mafia; Bonanno Family.

Q If I could now direct your attention to lines four, five, and six, on page 22. Page 22, top of the page. Basciano

states, "Randy. Michael Nose told me bad things about he's a rat."

Who did you understand Basciano to be speaking about when he mentioned Randy?

A Randy Pizzolo.

Q And when he continued, "Michael Nose told me bad things about he's a rat." What did you understand Basciano to mean by that?

A That he's saying that Randy was no good, he was a rat, Randy Pizzolo.

Q What is a rat?

A Somebody that's cooperating.

Q If I could now direct your attention to lines seven, eight, and nine. You continue, "Well, he shot his best friend in the back of his legs."

What were you referring to when you mentioned that incident?

A They had a beef in the restaurant in Whitestone, Tavern On The Green -- Cafe On The Green in Whitestone. And they had words inside the restaurant. Now they left, and his friend is in front of him and he shot him in both his legs.

Q Is this the same incident you testified about yesterday?

A Yes, it is.

THE COURT: I'm sorry, who shot whom?

THE WITNESS: Randy Pizzolo shot his best friend in

both of his legs in the parking lot.

Q What is the rule in the Bonanno organized crime family with regard to known rats?

A You kill them.

Q If I could now direct your attention to the middle of page 22, lines 19 to 21 -- actually, I'll start with line 15.

Basciano continued, "I told the lawyer everybody -- sometimes you get a bad student because the teacher didn't teach him right. And I gave this kid the benefit of the doubt. And I, I told him, I said, 'listen to me, I'm your last F-ing stop. You F up with me. . .'"

What did you understand Basciano to be referring to when he said, he gave this kid the benefit of the doubt?

A He's talking about Randy Pizzolo.

Q When Basciano explained to you, "I told him, I said, 'listen to me, I'm your last F-ing stop. You F up with me. . .'"

What did understand Basciano to mean?

A That's your last stop. You screw up with me, I'm going to kill you.

Q Going to kill who?

A Randy Pizzolo.

Q I'd now like to direct your attention to line 28. Now we'll play clip seven.

(Audio played.)

(Audio stopped.)

BY MS. MERKL:

Q I'd like to direct your attention back to page 22, beginning of clip seven.

(Witness perusing)

Q Page 22, do you have it?

A Yes.

Q Directing your attention to line 28, you state, "It's the same scenario. Eight years before you make a guy."

What were you referring to?

A I put a policy in when I came in that you have to be around the family -- you have to be around that individual that put you up for eight years. And Vinny was making guys that weren't around us for eight years. Vinny Basciano.

Q If I could now direct your attention to page 23, lines seven, eight, and nine. You mention Anthony Aiello, Basciano replies Anthony Aiello. Who were you referring to there? Which Anthony Aiello?

A He's a wiseguy in the Bonanno Family.

Q Which Anthony Aiello are you referring to?

A Junior.

Q The younger --

A The younger one.

Q What is his nickname?

A Ace.

Q And line nine you continue, "He ain't around Baldo."

Who were you referring to when you mentioned Baldo?

A When I spoke to Vinny Basciano, he told me he was around Baldo and that Baldo released him. I spoke to Baldo and Baldo said "That's not true. That's a lie, Chief."

Q Who were you referring with the term "Baldo"?

A Baldo Amato was a wiseguy in the Bonanno Family.

Q Now directing your attention to line 11, Basciano states, "Okay. I knew him for two years, Bruno, Bruno. . ."

Who did you understand Basciano to be referring to when he mentioned "Bruno"?

A Bruno Indelicato, he's a wiseguy in the Bonanno Family.

Q And he's a former captain you testified yesterday?

A He's a former captain, correct.

Q I now direct your attention to page 24, line 17. You mention a Frankie Lino. Who is Frankie Lino?

A Frankie Lino is a captain in the Bonanno.

Q And then on line 20 you mention a Frankie Coppa. Who is Frankie Coppa?

A Frankie Coppa is a captain in the Bonanno Family.

Q I now direct your attention to the bottom of page 24, lines 25 through 27. Basciano again mentions Anthony Aiello. And he states, "Anthony Aiello was a good man. He's a good kid."

What did you understand Basciano to mean when he

said Anthony Aiello was a good man, a good kid?
A That he was the shooter that killed Randy Pizzolo.
Q Prior to your conversation on January 23, 2005, how did you arrive at that understanding?
A He told me that in a codefendant meeting at MDC Brooklyn.
Q If I can now direct your attention to page 25, lines six through eight.
You state, "I don't want people talkin' that we clipped Randy. We killed Randy. You killed Randy."
What did you mean when you stated, "I don't want people talking that we clipped Randy?"
A I don't want people talking that I clipped Randy or a family clipped Randy. You clipped Randy.
Q Meaning?
A Meaning, Vinny Basciano.
Q Vinny Basciano replies, "Nobody, nobody knows that."
What did you understand him to mean by that?
A That he clipped Randy Pizzolo and nobody knows it.
Q If I can now direct your attention to line 11, Basciano states, "But we, first of all, we didn't do it."
What did you understand him to mean by that?
A Now he's throwing a monkey wrench in the game. We didn't do it. This didn't come from us.
Q If I could now direct your attention to lines 16 and 17, I'm sorry, 14 through 16, Basciano states, "Yes. Yes. Yes.

Yeah, fine. Because he F-ing, because he worked for me, the kid."

What did you understand him to mean "because he F-ing, because he worked for me, the kid"?

A He's talking about Randy Pizzolo, that he worked for Vinny Basciano.

Q If I could now direct your attention to lines 23 and 24. You state, "Everything is going on me. I didn't give the order."

What did you mean by "the order"?

A There was talk that I might get indicted coconspirator to killing Randy Pizzolo, and I had nothing to do with it, and I was explaining it to him.

Q And Basciano replied "Right." What did you understand that to mean?

A That I'm right, that I might get indicted.

Q When you stated, "I didn't give the order," what did you mean?

A I had nothing to do with the murder of Randy Pizzolo.

Q And then the bottom of the page Basciano replies with, "Right. None of us did it. That's the bottom line."

What did you understand him to mean when he said "None of us did it. That's the bottom line"?

A At that point he's changing up. He's saying nobody did it.

Q Continuing on page 26, Basciano stated, at lines two and three, "Whoever did it, they'll find out who did it, it wasn't us."

What did you understand him to mean by all that?

A He's saying that we didn't do it, and they will find out who did it.

Q Who will find out who did it?

A The law.

Q So in this portion of the conversation you're speaking about whether or not you could be indicted for this murder?

A There was talk that I might get indicted for conspiracy to murder Randy Pizzolo.

Q Prior to the murder, did you have any knowledge of it?

A No, not at all.

Q When Basciano replies with, "Whoever they did it, they'll find out who did it, it wasn't us."

What did you understand him to mean?

A I told him that I might be indicted for conspiracy to the murder of Anthony Pizzolo. And he knew I was upset. So he's saying, no, it didn't come from us. He's trying to pacify me.

Q If I can now direct your attention to page 26, line 13, play clip eight.

(Audio played.)

(Audio stopped.)

Q If I can now direct your attention to page 27, beginning

of clip eight.

Directing your attention to lines 28 and 29. Basciano describes, "Only person that I know that went bad. . ."

Who did you understand -- I'm sorry, do you have the page?

A Yes.

Q Okay. Line 28, 29, on 27, "The only person that I know that went bad. . ."

What did you understand Basciano to mean by "went bad"?

A Somebody that's a cooperator.

Q If I can now direct your attention to page 28, three quarters of the way down, lines 20 through 23. In the middle of that passage you say, "but had had her she said to me, 'as long as you ain't on sep, you have a shot at coming on my floor.'"

What did you mean by sep?

A If you got a separation, Vinny Basciano could not come on the floor. If I went back downstairs, he couldn't be with me.

Q If there was a separation --

A They put separations.

Q And so when you refer to coming down on my floor, what was that in reference to?

A I was going to go back down on my floor, 42, and he

wanted to come down there with me. I said, "I'll see what I can do."

Q If I can now direct your attention to page 29, the top of the page, lines six and seven, you mentioned, "gotta get a message through a lawyer."

What did you mean about by that?

A Sending messages through a lawyer, the lawyer never gets message right. Tommy Lee was the lawyer.

Q And what was Tommy Lee doing for you and Mr. Basciano when you were incarcerated?

A He was bringing messages.

Q If I could now direct your attention to line nine, you stated, "I got to get a message through to my daughter." What did you mean by that?

A I was getting a message from my daughter, that the people want to know what's going on outside in the street. I told my daughter, "mind your business."

Q If I could now direct your attention to the bottom of the page, lines 26 through 31, Basciano states, "Now, the word came back to me now, they says, they don't understand how come that ah Joey ah Louie Electric is being bumped up to captain and not Joe C. Jr. That's what word came back to me."

When you was speaking with Mr. Basciano and he stated, "Now the word came back to me," what did you understand it to mean by "the word came back to me"?

A That they were unhappy that they didn't bump up Joe C. Jr. to a captain, but they bumped -- we bumped up Louie Electrician to a captain in the Bonanno Family.

Q Did you have an understanding of where that word came from?

A No, I didn't.

Q If I could now direct your attention to page 30, the middle of the page, lines 11 through 17, there's an exchange regarding a policy involving fathers and son. And line 17 Basciano states, "What policy did I break, Joe?"

In general, what were you speaking about in that portion of the conversation?

A You can't make -- you can't put a father as a captain in the family, and you can't put his son there as acting captain. So say he's got four or five guys under him and one of the good fellas got a beef against their captain. You can't go to the son. They ain't gonna go against the father.

So my policy is, you can't be father and son. You gotta --

Q In the same crew?

A In the same crew. It don't work.

Q If I can now direct your attention to lines 24 through 27. You mentioned, "He's in the street. You can't handle your acting underboss. What's so hard about your F-ing job, that you had to make your son an acting captain?"

Who are you speaking of who was acting underboss?
A Joe Saunders, Sr.
Q What did you mean by, "What's so hard about your F-ing job that you had to make your son an acting captain?"
A He put his son as acting captain.
Q And that was in violation of your policy?
A Policy, they broke that too.
Q If I could now direct your attention to page 31, lines -- line 28 you mention, "me, Patty, and Johnny Joe." Who were you referring to when you said "Patty"?
A Patty Defilippo, captain in the Bonanno Family. And Johnny Joe's a wiseguy in the Bonanno Family.
Q And where is Patty based in New York City?
A He was captain in the Bronx.
Q If I could now direct your attention to page 32 -- actually -- I'm sorry, starting at the bottom of page 31, Basciano begins to discuss Patty; he continued on to discuss Patty. In general, what are you speaking about his portion of the conversation? Take your time.
A You're talking about line 30?
Q Line 30, yes. Basciano states, "He ain't your friend Joe. He ain't your F-ing friend." Continuing on page 32, "He ain't your friend."
What did you understand Basciano to be communicating to you?

A He's telling me that Patty Defilippo is not my friend.
Q What does that mean?
A That he's my enemy.
Q If I could now direct your attention to the middle of the page, you say at line 16, "Patty, I don't really know."
You're still speaking about Patty Defilippo?
A Yes, I am.
Q If I could direct your attention to lines 19 through 23, you state, "If I remember correctly, the lawyer come gives me the message that Patty, you think, is like the other six guys. At that time we only had six rats."
You mentioned, "If I remember correctly, the lawyer comes and gives me a message."
Who are you referring to with "the lawyer"?
A Tommy Lee.
Q And when you state, "come gives me the message that Patty you think, is like the other six guys."
Had you received a message regarding Patty being like the other six guys?
A Yes.
Q And who passed that message to you?
A Tommy Lee, the lawyer.
Q And where did that message come from?
A It came from Vinny Basciano.
Q And what did you understand the message to mean, that

Patty was like the other six guys?
A At that point I had six people that cooperated against me and that Patty Defilippo, he's saying is the seventh one.
Q Who is saying Patty is the seventh one?
A Vinny Basciano.
Q At that point in time, who were the six cooperators in the Bonanno Family that you were aware of?
A Frankie Coppa, Richie Cantarella, his son Paulie Cantarella, Sal Vitale, Frankie Lino, and Big Louie, they were the six cooperators at that time.
Q If I could direct your attention now to the bottom of the page, lines 29 through 33, you state, "I tell you what I told the lawyer. Tell Vinny, give get me facts, not opinions."

Basciano states, "Yeah. Yeah."

You state, "If you would give me facts, I have no problem."

And then top of page 33, Basciano, "Yeah. Right."

What are you speaking about in that portion of the conversation?
A In other words, he's telling me he's a rat. You can't just tell me somebody's a rat; you got to give me facts. I don't want your opinion.
Q And when you state, "If you would give me facts, I have no problem," what were you referring to by "I have no problem"?

A Patty Defilippo.
Q What do you mean by, "If you would give me facts, I have no problem"?
A If he were to give me facts that he was a rat, I would have sent an order out to kill him.
Q Then direct your attention to page 33, top of the page, Basciano states, "Yeah. Right. Right. But he did tell me. He told me one thing. He says, 'Joe says he don't care what you do with him.'"

What did you understand Basciano to mean by that?
A Now he's turning around and he's telling the lawyer that I said I don't care what he does with Patty, which I never said.
Q What did you understand that Basciano wanted to do with Patty?
A He wanted to kill him.
Q If I could now direct your attention to page 34, top of the page, lines three and four. You state, "Then he come to me, he said, 'Vinny took all my guys. What is he doing?'"

Take a moment, if you need, to orient yourself. But who are you referring to, "Then he come to me. He said, 'Vinny took all my guys'."
A Patty's saying that Vinny was taking his guys away from him.
Q Then the conversation continues, line 15 through 18, you

mention, "And the only way you can get a message out was through Tommy Lee, the only one, and he's a lawyer."

Is this the same Tommy Lee you were speaking about before?

A Yes, it is.

Q Basciano responds with, "I'm gettin' messages through my son now. I'm gettin' messages through my son."

What did you understand him to mean by that?

A He gets a visit every Monday and he gives his son messages to bring back out in the street.

Q Did you have an understanding of what son?

A His older son, Vinny, Jr.

Q If I could now direct your attention to lines 21 through 23. You continue, "Then he says to me, eh, eh, if Patty gets out, Vinny wants to jocko 'em. So I look at 'em."

What did you mean by, "He says to me"? Who is the "he"?

A Vinny Basciano.

Q I'm sorry, what do you mean by that?

A We had a code when I went in. He said to me, "If you want us to kill somebody, let us know."

I said, "All right. I'll tell you if what I'll do. If somebody's got to be killed, I'll send you, 'say hello to Bobby. Jocko says hello.'" That means kill him.

Q So when you receive -- let's just be clear, did you

receive a message including the term jocko, when were you incarcerated at MDC?
A Yes, I did.
Q Who brought you that message?
A Tommy Lee brought me that message that Vinny Basciano wanted to jocko Patty.
Q And when Basciano replies, line 24, states, "Yes, I did say that. I did say that."
What did you understand him to mean?
A I asked him, "Did you say that?" He said, yes, he did.
Q He did send the message regarding killing Patty?
A To jocko, yes.
Q Just to refresh the jurors' recollection, when did you set up the code term jocko, with Vinny Basciano?
A I met him in the diner January 7th, 2003.
Q A couple of days before your arrest?
A I knew I was getting arrested. At that point I had FBI on me 24/7.
Q If I could now direct your attention to page 35, lines 13 through 15 -- I'm sorry, going back for a moment to this jocko conversation. I forgot to ask you one thing.
Approximately when do you receive the message that Basciano was seeking to kill Patty Defilippo?
A Just before he got pinched, Patty.
Q Before Patty got pinched?

A I think I got the message on a Sunday, and I believe Patty got pinched on Tuesday, in 2003.
Q And then back to 24, lines 25 and 26, you state, "So does he know what jocko means?"
I'm sorry, page 34, line 25, you state, "So does he know what jocko means?"
Basciano says, "No. No."
Who were you referring to in line 25, when you said "he"?
A I'm asking him does the lawyer know what jocko mean? Does he know that means to kill somebody. And he says, "No. No."
Q Thank you, Mr. Massino. If you could now turn to page 35, lines 13 through 15 you mention, "They're waitin' to hear."
Who are you referring to when you say "they're"?
A The captains out on the street are waiting to hear from me. Nobody's moving. Nobody's taking orders at this point from Vinny Basciano.
Q How had you learned that?
A I got a message when I was on the floor.
Q Do you recall specifically who brought you that message?
A I got a message from Patty, I got a message from Joe Saunders.
Q If I could now direct your attention to page 36, the top

of the page, lines three and four. Basciano states, "But you could still get me a little strength."

What did you understand him to mean by that?

A He wanted me to support what he was doing. I could give him strength.

Q If I could now direct your attention to the lengthy passage on page 36. Basciano starts speaking at line ten. He states, "But what I understand Alfred told Dominick, it doesn't make sense. Louie was a little edgy with Michael, and Alfred was a little edgy with Michael, and Dominick was a little edgy with Michael, and Dominick had words with Michael."

What did you understand Basciano to mean by these people being edgy?

A He put Michael Nose there as the acting boss, once Vinny Basciano got arrested. He was asking Dominick, what's going on with the family, and they all got spooked. They got nervous.

Q If I could now direct your attention to page 37, lines 15 and 16. Basciano states -- actually, directing you to page 14 you say, "We don't want to clip nobody again."

And Basciano says, "It's stopped. I'll put a moratorium on it."

What did you understand him to mean by that?

A I didn't want anybody to get killed anymore. He said he

was going to send word out. He was going to put a moratorium out. no more killing.

Q Who has the power to put a moratorium on a murder?

A Only the boss.

Q I'd like to direct your attention to bottom of page 37, line 32, Basciano states, "You want to use my son?"

At that point what did you understand him to mean?

A If I want to send a message out, he'll give it to his son to send out to the street.

Q I now direct your attention to page 38, Basciano continues, "I see him every Monday."

Who did you understand Basciano to be referring to with "him"?

A He get's a visit every Monday and it's his son, Vinny Basciano, Jr.

Q If I could now direct your attention to line five on page 38, Basciano -- excuse me, you state, "Because he ain't a --" and it's, you then change what word you're going to say. "You want to ask him?"

What did you mean when said "he ain't a --" what were you about to say?

A That his son's not a friend of ours, not to really give him a message.

Q Then you continue. "You want to ask him? Go ahead."

What did you mean by that portion of the sentence?

A He wanted to ask his son what's going on in the street.

Q And you gave him the green light?

A I said, "Yeah, find out. See what he says."

MS. MERKL: Your Honor, the next clip is a little bit lengthy. This might be a good time for the morning break.

THE COURT: All right. Members of the jury, just leave your binders on your seats and we'll take a ten-minute break. All rise for the jury.

(Jury exits.)

THE COURT: Please remain standing, Mr. Massino. Everyone else may be seated.

All right, Mr. Massino you may stand down. Do not discuss your testimony with anyone. We'll take a ten-minute break. Thank you.

(Recess.)

(In open court; defendant not present)

(Jury not present)

THE COURT: Let's bring in the defendant.

MS. MERKL: Your Honor, I believe some of the lawyers are in the hall.

THE COURT: Where are the lawyers?

MS. MERKL: That's a good question.

THE COURT: Let's not bring in the defendant.

Please be seated, everyone.

(Defendant present.)

THE COURT: All right, let's bring in the witness.

Mr. Goltzer with respect to areas of object, if you could raise the objection when the question is asked. If you believe that it's something that needs to be addressed immediately. I prefer to address these issues immediately, if I can. But if I -- we can always hold a side bar, if necessary. I'd rather not wait until the end of the session. It would be easier, I think.

MR. GOLTZER: I don't expect that.

THE COURT: At this point I understand. But I just mention that to you.

MR. GOLTZER: If it was a major issue.

THE COURT: All right. And as long as that, that process of having a side bar isn't, isn't over used by either side, it's a perfectly reasonable thing. And I have side bars.

MR. GOLTZER: Where I can, I'll try to object --

THE COURT: All right, thank you. And I may say in a word or two, and you can just amplify it. Because many rules have many parts.

MR. GOLTZER: I'm not sure I know the rules.

THE COURT: All right, let's bring in the jury.

(Jury enters at 11:55 a.m.)

THE COURT: Please be seated, everyone. I remind the witness that he is still under oath. You may continue

your examination of the witness.

MS. MERKL: Thank you, your Honor.

BY MS. MERKL:

Q Mr. Massino, I'd like to continue playing the tape, so if everybody could get out their transcript binders and turn to transcript 405T. We'll continue on page 38 of 405T, with clip nine on page 38.

(Audio played.)

(Continued on the next page)

DIRECT EXAMINATION (Cont'd)

BY MS. MERKL:

Q Mr. Massino, if I can direct your attention, please, to page 38, the beginning of clip 9.

Do you have the page?

A Yes.

Q If I can direct your attention to line 26, Basciano states, "Did you get the money by the way?"

What did you understand Basciano to be referring to when he mentioned "the money"?

A They put money in the champagne bottle and they sent it to my wife.

Q I'm sorry, Mr. Massino. I think the microphone is too far --

A Sorry.

THE COURT: Okay?

THE WITNESS: Yes.

Q I'm sorry. Could you just explain what you understood him to mean when he said "the money" on line 26?

A He put money in a champagne box and then sent it to my wife.

Q In what time frame -- first of all, who put money, who did you understand that money to be from?

A Vinny Basciano.

Q And when you say they put money in the champagne box and

sent it to your wife, approximately when did your wife receive that package?
A I'm going to say 2004.
Q Was it in connection with any time of year?
A It could have been Christmas.
Q Now, when you say they put it in the champagne, what do you mean by that?
A It was a bottle of Dom Perignon and in the bottle of Dom Perignon, put 50,000 in there.
Q And this package was delivered to your wife by somebody?
A Yes.
Q Do you know who delivered it?
A Yes.
Q Who?
A My friend Joe's wife.
Q But your understanding was that it came from where?
A It came from Vinny Basciano.
Q Now, I direct your attention to line 25 of page 39. Page 39, line 25. You asked Basciano, "What happen with Fat Frankie?"
Who are you referring to when you mention "Fat Frankie"?
A Fat Frankie Esposito. He was an associate of Bonanno family. He was around me and Vinny Basciano took him.
Q Approximately when did Vinnie Basciano take him?

A As soon as I got arrested.
Q And you said he was an associate of the Bonanno crime family?
A He was around me.
Q What business, if any, was Mr. Esposito involved in?
A He had a big bookmaking business and sports business.
Q Do you know where Frank, Fat Frankie lived?
A Yes.
Q Where?
A Howard Beach, Queens.
Q If I can now direct your attention to -- well, just to be clear, from lines 25 on, you're speaking about, you mentioned Fat Frankie and Basciano states, "Come up with the money, Bro."
What did you understand Basciano to mean by that in line 26?
A He was getting money from them and we were whacking it.
Q If I can direct your attention to the top of page 40, Basciano mentions "65" both in lines 1 and in line 5, he states 65,000.
What did you understand Basciano to mean by that?
A Frankie Esposito gave him 65,000 and we whacked it, half for him and half for me.
Q If I can now direct your attention to the middle of page 40, line 13. You mention, "He is gonna put Bruno there."

Who are you referring to there when you mention "Bruno"?
A Anthony Indelicato.
Q Same Anthony Indelicato you testified about yesterday?
A Yes.
Q If I can now direct your attention to page 41, line 22.
Basciano states, "Bo, I'm here for you. I'm here for you."
What did you understand Basciano to mean by that?
A That he's telling me he's here for me, he's here for me.
Q What did that mean to you?
A That he's going to be loyal to me.
Q If I can now direct your attention to the next page, page 42, lines 15 and 16, you were asked, "So, what else is going on with the family," what were you referring to when you said "with the family"?
A I wanted to know what was going on in the Bonanno family, what we have.
Q What do you mean by "what we have"?
A Things that we're getting money from that I'm not aware of.
Q Basciano continues on lines 18 and 19 to speak about a place called Piazza, later on in the page, line 36, he mentions Via Oreto.
In general terms, what are you speaking about in

this portion of the conversation?
A He's saying these are the people that are around the Bonanno family.
Q And in the sense of these businesses being around the Bonanno family, what does that mean for the Bonanno family?
A That nobody could bother them. They got protection from the Bonanno family.
Q And what, if anything, did you understand the businesses to be providing to the Bonanno family in exchange for that protection?
A Kicking up money.
Q If I can direct your attention to line 36 on page 42, Basciano mentioned, "Via Oreto, the restaurant down on First Avenue is our restaurant."
What did you understand him to mean by that?
A That they were with the Bonanno family.
Q If I can now direct your attention to page 43, line 7, Basciano states, "The Westside tried to claim it through Fritzie. I got it."
When Basciano mentioned "the Westside," what did you understand him to be referring to?
A He's referencing to the Genovese family.
Q And he mentions a Fritzie. Who's Fritzie?
A Fritzie Giovanelli. He's a captain in the Genovese family.

Q When Basciano explained that the "Westside tried to claim it through Fritzie, I got it," what did you understand him to mean?
A That they had a beef and Vinny Basciano sat down with Fritzie and Vinny won the beef.
Q A beef about what?
A The restaurant.
Q The Via Otero restaurant?
A Yes.
Q If I can direct your attention to page, staying on page 43, line 23, Basciano states, "The union belongs to us that way."
What did you understand Basciano to mean by "the union belongs to us"?
A We had a union in the Bronx, construction union.
Q What does it mean for a union to belong to an organized crime family?
A They belong to us and they belong to the Gambinos. They were around a guy by the name of Joey Gambina. He was a captain in the Gambino family. He had 50 percent and we had 50 percent.
Q In what manner does an organized crime family benefit from having a union belong to it?
A Stop them from having problems, stop the unions from bothering them.

Q If I can now direct your attention to lines 27 and 28, Basciano states, "Listen to me. It's, it's prestige, Bo."

What did you understand Basciano to mean by that?

A That it's important to have this union with us.

Q How does a crime family benefit from a union?

A You get them jobs.

Q If I can now direct your attention to page 44, line 15 on page 44. You mention "the war chest money."

What were you referring to when you mentioned the "war chest"?

A Before I came in, maybe the year 2000 or '99, I started every wiseguy in the Bonanno family, if they could afford it, they had to put a thousand dollars a month in the war chest and that money would go for if anybody got arrested, for doing something for the Bonanno family, this would pay their lawyers, commissary money, and send something to their wife.

Q So the war that you're preparing for was a war with whom?

A War chest.

Q What was the war that you're preparing for? Who would the Bonanno family have been at war with?

A Nobody was at war. It was a war chest.

Q All right. But in preparation for what? Protecting the Bonanno family from what?

A If somebody got pinched for the Bonanno family and they needed a lawyer and they were doing it for the Bonanno family,

we would pay for the lawyer. So where would you get that money? You got it from the war chest.

Q Under what circumstances would somebody from the Bonanno family need a lawyer?

A It could be murder. It could be you say to him go put this guy in the hospital, he breaks his legs, he gets arrested. He's following orders. He don't have any money. We pay for it. It comes out of the war chest.

Q And arrests would come from the government, some entity of some government?

A Any kind of law enforcement, yes.

Q If I can now direct your attention to line 24 on the same page, page 44. You mentioned, "I said your son hasn't got a story right yet, talkin' about Dino, not Joey."

Who are you referring to when you said "your son"?

A Joe, Joe Saunders, Sr. He's got two sons, one is Dino and one is Joe, Jr. They're both wiseguys in the Bonanno family.

Q So in this portion of this conversation, you're speaking about Joe Saunders and his children?

A Yes.

Q Do you know Joey?

A Yes.

Q If I could now direct your attention to page 45, please.

On line 30 on page 45, you mention, "My

brother-in-law, if I could approve, I didn't take him down but everybody knew he was down and I told you that too."

Who are you referring to when you mentioned your brother-in-law?

A I was talking about my underboss, Sal Vitale.

Q And then you continue on page 46 at lines 4 and 5. "If I got pinched tomorrow, he's officially down." Basciano replies with "Yeah."

What are you referring to when you said, "If I got pinched tomorrow, he's officially down"?

A I told all my captains if I get pinched tomorrow, my brother-in-law is no more the underboss. You take him down and you leave him under the panel.

Q If I could now direct your attention to the middle of the page, line 12, you mention, "He would have killed me in an f'ing heartbeat."

Who are you referring to would have killed you?

A I'm talking about my brother-in-law Sal Vitale.

Q And then you continue on lines 19 through 22. "And John was -- George was told from the West, said listen, we're not going through another Paul situation. Joe's the boss."

Starting on line 19, who are you referring to when you mention John?

A John Gotti.

Q And when you said, "George was told from the west," who

is the "George"?
A George from Canada.
Q And the "West" is who?
A Genovese family.
Q What were you referring to when you said "George was told from the West"?
A I just came home and Barnie sent for George. Barnie's a captain and was on the panel with the Genovese family and he told him, listen, I hear certain things. We're not going for another Paul Castellano murder. If anybody is going to kill Joe it's going to be an all out war. Joe is the official boss.
THE COURT: Can we get a date?
MS. MERKL: Your Honor, I was just going to follow up.
Q When did you come home? What are you referring to?
A I came home 1992.
Q So after you were released from prison, you got a message?
A I got a message in '93.
Q Regarding the possibility that you, your life might be in jeopardy?
A At that point, I didn't know what he was talking about. I thought he was referring, talking about himself, George from Canada, because Barney said we're not going to tolerate

nothing. Barney doesn't tell him my brother-in-law is John Gotti, Sr. at that point.

It took me to get arrested in 2003, I was on the floor with Barney and Barney told me the story and I put the pieces together.

Q When you mention "a Paul situation," what do you mean by that?

A John Gotti killed Paul Castellano and that the other families weren't going to go for if I got killed. There would be a war.

Q Approximately when did John Gotti kill Paul Castellano?

A December 1985.

Q What was Paul Castellano's position in organized crime at the time?

A He was the boss of the Gambino family.

Q What was John Gotti's position?

A He was an acting captain.

Q After killing Paul Castellano, what happened to John Gotti, Sr.?

A He become the boss.

Q If I could now direct your attention to page 47, the middle of the page, lines 18 through 20, Basciano states, "I made an oath to you and it says I'll go to hell with you. I'm here for you a thousand percent."

What do you understand Basciano to mean when he

stated "I made an oath to you"?
A He said he made an oath to me that he's here a thousand percent for me.
Q And what oath did you understand him to be referring to?
A I got no idea. He just said that to me, that he was there a thousand percent for me.
Q If I could now direct your attention to page 48 and start at line 15, playing clip 10.
(Audio played.)
Q (By Ms. Merkl) If I can now direct your attention back to page 48, line 21. Do you have the page?
A Yes.
Q Line 21, you state, "Maybe just put Jerry there."
Who are you referring to when you mention Jerry?
A Jerry Asaro. He's a captain in the Bonanno family.
Q And where were you contemplating putting Jerry at that point?
A Put him on the panel.
Q If I can now direct your attention to the top of page 39, lines three and four, Basciano states, "Okay. Four to five years if I hit the street and what do you want me to do?" And you reply, "I put you back."
What did you understand Basciano to be asking you when he asked you, "What do you want me to do"?
A He was worried when he come out in four, five years, what

position would he have.
Q Position with regard to what?
A The Bonanno family.
Q If I can now direct your attention to the middle of page 49. You mentioned an individual named Jimmy General.
Who is Jimmy General?
A Jimmy General is a wiseguy in the Bonanno family.
Q If I can now direct your attention to the top of page 50. The first line. Basciano states, "I'm sure you're still behind me."
What did you understand Basciano to mean by that?
A That everything that he did, was I behind him 100 percent, am I supporting him.
Q Mr. Massino, just to be clear, the note that you looked at yesterday marked Government Exhibit 100-1, when did you receive that note in relation to when you made this recording?
A I'm just looking to see whether this is the Friday.
Q I'm sorry. Mr. Massino, what are you referring to?
A Is this tape Friday or was it the Monday tape?
Q This tape is the tape that -- January 3rd.
A All right. January 3rd.
I believe I got that note January 5th, maybe Wednesday night.
Q A couple of days after this recording?
A A couple of days after that recording.

Q If I could now direct your attention to line 12 on the same page, page 50.

Mr. Massino, you mention "Fat Paulie." Who are you referring to when you mention Fat Paulie?

A Fat Paulie is a wiseguy in the Bonanno family.

Q Do you know where Fat Paulie is based in the New York City area?

A I believe Astoria or Long Island City.

Q If I can now direct your attention to lines 14 through 17, Basciano mentions Fat Paulie and states, "Jimmy General has had a legitimate beef," and he continues to discuss Jimmy General.

Is this the same Jimmy General you were speaking about before?

A Yes, it is.

Q Do you know where Jimmy General's based in the New York City area approximately?

A Long Island City or Astoria, Queens.

Q If I can now direct your attention to page 51, line 6 and 7. You mentioned, "I'll never use a junkie for a piece of work. I don't trust them."

What did you mean by "a piece of work"?

A Piece of work is killing somebody. I would never use anybody that used junk to kill anybody.

Q That's, that was your personal policy?

A That was my policy.
Q Now, directing your attention to lines 8, 9 and 10, Basciano states, "Listen to me. When I left up, I said listen to me. When I go in the can, this kid over here, let him go."
When Basciano stated "when I go in the can," what did you understand him to mean?
A When he, when he gets arrested, he goes in the can, you're to kill Randy Pizzolo.
Q So let's just break that down.
What did you understand Basciano to mean by "when I go in the can"?
A When he goes to jail, you're to kill Randy Pizzolo.
Q So "the can" is jail?
A Jail.
Q And when Basciano said that "this kid over here," who is "this kid" a reference to? What was your understanding of the conversation?
A Talking about Randy Pizzolo.
Q When Basciano said, "over here, let him go," what did you understand that to mean?
A The kid that was with him, let him go.
Q What did you understand "let him go" to mean?
A To murder him.
Q When he continues, "I thought it was Dominick and Joey Gambina," what did you understand him to mean by that?

A That they were the two shooters that killed Randy Pizzolo.
Q That was at the time he went in the can, that was what he understood?
A Yes.
Q Now, if you could continue to lines 12 and on, Basciano states, "Dominick told, told me I believe, and I'm not getting messages the right way, that he didn't handle himself the right way."

What did you understand Basciano to mean by "he didn't handle himself the right way"? Who is the "he"?
A He was talking about Joey Gambina, that he didn't handle himself on a piece of work on killing Randy Pizzolo.
Q Then on line 17 and 18, you continue, "Yeah, but who gave the okay to clip 'em? You did?"

What were you referring to there regarding the clip?
A Who gave the okay to kill Randy Pizzolo.
Q And Basciano responded, "Michael." Who did you understand him to be referring to?
A Michael Nose.
Q At that point in time, what was Michael Nose's position in the family?
A Acting boss.
Q What is your understanding of who he was acting for?
A Vincent Basciano.

Q Then I direct your attention to line 23. Basciano states, "It wasn't me. You know what I'm saying?"

What did you understand him to mean by that?

A That it wasn't me, you know what I'm saying.

Q What does that mean?

A Throwing the monkey wrench in the game that it wasn't me.

Q What did you understand that to mean?

A That he's telling you it wasn't him but it really was him.

MR. GOLTZER: Your Honor, may we have a sidebar?

THE COURT: All right. Sidebar.

(Sidebar conference.)

(Continued on next page.)

THE COURT: Ready?

MR. GOLTZER: I'm going to object to the last answer by the witness which he indicates that he said it wasn't me but it really was him.

There's no basis for that testimony. It's improper lay opinion. There's no foundation for it. He's reading Mr. Basciano's mind. It's unduly prejudicial.

Mr. Basciano stated on the tape that Michael gave the order in response to his question after he said let him go.

There's no foundation for this at all.

MS. MERKL: Your Honor, Mr. Massino was a participant in the conversation and had an opportunity to understand Mr. Basciano's tone of voice and his manner of speaking, and Mr. Massino's understanding of the term "let him go" was not let him go unkilled, it was go kill him, let him go, get rid of him, the kid's got to go, and that's Mr. Massino's understanding and when Mr. Basciano stated to Mr. Mancuso, stated Mr. Mancuso was then involved, and then within two lines stated it wasn't me, you know what I mean, Mr. Massino was in a position to under, to draw a reasonable inference as to what that means given the totality of their conversation.

He understood at the time that Basciano was deflecting the, making up excuses and they're free to inquire

into all of this on cross-examination.

THE COURT: The objection is overruled.

(End of sidebar.)

(Continued on next page.)

DIRECT EXAMINATION (Cont'd)

BY MS. MERKL:

Q Now, Mr. Massino, directing your attention to lines 24 through 26, you state to Mr. Basciano, "What I'm trying to say is -- and -- when I ask you, there is only one person could ask you. And you know that?"

What were you referring to by "there is only one person who can ask you"?

A There's only one person could ask you about murder and that's your boss.

Q And then continuing on lines 31 and 32, Mr. Basciano states, "Cause when you hit me with, you told me Joey Gambina was on the hit."

What hit are you referring to?

A Killing Randy Pizzolo.

Q And when you mentioned that "you told me Joey Gambina was on the hit," when had Basciano told you that Joey Gambina was on the hit?

A Co-defendant meeting.

Q If I can now direct your attention to 52, line 8. We'll play clip 11.

(Audio played.)

Q I now direct your attention, Mr. Massino, back to page 52.

A Okay.

Q Directing your attention to lines 11 and 12, you mentioned, "Joe Saunders puts in this kid, Mike, the butcher."

Who is Joe Saunders, just to be clear?

A Joe Saunders, Jr. He's a wiseguy in the Bonanno family.

Q And when he says "puts in this kid," what did you understand that to mean?

A He put a kid in there, Mike the Butcher, which was never supposed to be straightened out, never was supposed to be a wiseguy.

Q So Mike the Butcher was put in for membership in the Bonanno Crime Family?

A Yes, he was. He became a wiseguy.

Q If I can now direct your attention to the bottom of page 52, Basciano states, "If we had to take all the guys in this outfit or these other outfits who were doing coke."

What did you understand Basciano to mean by "outfit"?

A He's talking about the five families of New York. They also call them the outfits, borgata.

Q I now direct your attention to page 53, line 25 and 26 on page 53. Basciano states, "Yes. Dominick, Dominick is a loyal, loyal dog."

What did you understand Basciano to be referring to?

A Talking about Dominick Cali. He's a wiseguy. He's a captain in the Bonanno family.

Q Then in lines 29 through 34, Basciano states, "If I tell him to do something, it's done."

What did you understand him to mean by that?

A If he tells him to kill somebody, it's done.

Q Basciano then continues. "Ace Aiello is like a Luca Brasi. He's your Luca Brasi."

What did you understand Basciano to mean by "a Luca Brasi"?

A The thing from "The Godfather," that you put him in a direction and he'll kill for you.

Q Who was Luca Brasi in "The Godfather"? What was his role?

A He was a hit man.

MR. JASPER: Objection, your Honor.

THE COURT: I'm sorry. Did I hear something?

MR. JASPER: Objection, your Honor. She asked what was Luca Brasi's role in "The Godfather"? I object to that.

THE COURT: You want to lay a foundation?

BY MS. MERKL:

Q Mr. Massino, are you familiar with "The Godfather" films?

A Yes, I am.

Q Are you familiar with a character in "The Godfather" films by the name Luca Brasi?

A Yes.

Q What was Luca Brasi's role in "The Godfather"?

A If they sent him out to kill somebody, he would do it.
Q If I can now direct your attention to lines 31 through 34, Basciano states, "I got four other guys that, I put 'em in a direction, it's gonna get done. 100 percent. It's gonna get done."
What did you understand Basciano to mean by that?
A What he's saying to me if somebody got to be killed, he got four guys, put them in that direction and they're gonna get killed.
Q I now direct your attention to page 54. Basciano states, "I sent out word for him. Joe Gambina thumbs up, and to bump up Louie Electric."
When Basciano stated "I sent out word," where did you understand him to be sending word?
A He sent a word to Dominick.
Q And when he mentioned "Joe Gambina thumbs up, and to bump up Louie Electric," what did you understand that to mean?
A He still was looking to make Joey Gambina and I said to leave it alone. He sent words out thumbs up and thumbs up for Louie Electrician which I okayed to make him a captain.
Q And then continuing on lines 10 through 14, Basciano states, "Michael says where did the message come from? Dominick says, I'm not at liberty to tell you where it come from but the other guy knows about it."
What did you understand Basciano to mean by "the

other guy"?
A Talking about me.
Q If I can now direct your attention to line 17 and 18, Basciano states, "If he wants to tell him that, that I'm getting messages from my son?" You reply, "Oh, no, no, no, no, no."
What did you understand Basciano to mean that "if he wants to tell him that, that I'm getting messages from my son"?
A They want to know where did the message, how did you get the message.
Q How did who?
A Dominick. And Dominick didn't want to say he got it from Vinnie Basciano's son.
Q If I can now direct your attention to page 55, you mentioned on lines 19 and 20, and then continuing to lines 22 and 23, you and Basciano discuss about Petey Rabbit's crew and TG's crew and Basciano replies, "I took it away? I just gave them a different captain."
What were you speaking about in this portion of the conversation?
A When I was in MDC, when I was at the co-defendant meeting downstairs, they said Vinny was taking the money guys for himself and he was giving the shit to the other captains.
Q What do you mean by "the shit"?

A Guys that are broke go with Nicky Santora. The money guys, he would put with himself.
Q When Basciano stated, "I just gave them a different captain," what did you understand him to mean?
A He put someone with other captains and he put someone with himself.
Q If I can now direct your attention to page 57, lines 12 through 16, page 57, Basciano states, "I think right now besides the things that you heard, I think that was the confusion. Michael went to see -- see what Michael did with Dominick? He wanted to know Dominick all the things I had."
What did you understand Basciano to mean by the latter part of that, "He wanted to know Dominick all the things I had"?
A Being that Vinnie Basciano put him in there as the acting boss, he wants to know what's going on in the family. He's on the panel. He's running the family.
Q Who is the "he" that you're referring to?
A Michael Nose.
Q If I can now direct your attention to page 59, line 6 and 7. You inquire, "What's happening in Jersey with the machines?" And Basciano replies, in lines 8 and 9, "They're in there. They are there. They been there for weeks now."
What were you speaking about in that portion of the conversation?

A For the longest time, I didn't get any money from the poker joker machines and I was wondering what was going on.
Q So the machines in this context are what type of machines?
A Poker joker machines. They're illegal.
Q Illegal gambling?
A Illegal gambling.
Q If I can now direct your attention to lines 11 and 12, Basciano states, "Oh, this is like with the machines, Sally Daz, Sally Daz put the machines in."

Who did you understand Basciano to be referring to when he mentioned Sally Daz?
A Sally Daz, he's an associate of the Lucchese family. He's in the vending business. He services all kinds of machines, jukeboxes, any kind of machines.
Q If I can now direct your attention to page 60, line 27. We'll play clip 12.

(Audio played)

Q (By Ms. Merkl) If I can now direct your attention back to page 60.

Directing your attention to the top of page 61, line 10. Basciano mentions again the war chest money.

Are you referring to -- what was your understanding as to what he was referring to there?
A The money that we attached to wiseguys every month to put

into the war chest.
Q The same war chest you previously testified about?
A Yes, it is.
Q If I can now direct your attention to page 62, lines 23 and 24. Basciano mentions, "Well, I know with my sports business, with my sports business."
What did you understand Basciano to be referring to with his sports business?
A That he's got a sports business taking action, football, basketball.
Q Is that a form of illegal gambling?
A Yes, it is.
Q If I can now direct your attention to page 63, lines 9 through 12, you mention "customers" and then on lines 13 and 14, Basciano states, "Bo, I would have taken them and put 'em into my office."
What did you understand Basciano to be referring to when he said "my office"?
A When I went to jail, when I got arrested, I never got a dime from my bookmaking business in two years. He said I should have gave it to him, he would have put it into his sports business.
Q What is an office in the context of sports betting?
A People, they call an office, you might have four, five clerks answering the phone and they take your bets.

Q If I can now direct your attention to page 64, lines 25 and 26, Basciano mentions, "No, come on, Bruno. Bruno, I think Bruno is gonna get pinched."

What did you understand Basciano to be referring to with Bruno?

A Talking about Anthony Indelicato getting pinched for the murder of Frank Santora.

Q That's the murder that you testified about yesterday?

A Yes, it is.

Q If I can now direct your attention to page 66, top of the page, lines 5 through 7, Basciano mentions, "Did you get the word about all the guys I straightened out? Did you hear about all the guys' names?"

What did you understand Basciano to mean by, "Did you hear about all the guys I straightened out"?

A He was making a bunch of guys and he wanted to know if I was aware of them.

Q When you say "making," just to be clear --

A They were straightening them out, making them members of the Bonanno family, become wiseguys.

Q If I can now direct your attention to lines 17 and 18, Basciano states, "Every move that I made, I told him to bring it to you."

Who did you understand Basciano to be referring to when he said "I told him"? Who is the "him"?

A Tommy Lee, the lawyer.
Q Tommy Lee was that lawyer who was bringing messages back and forth?
A Yes.
Q If I can now direct your attention to page 67, top of the page, lines 5, 6, 7 and 8, Basciano states, "Me. I told that Vic Juliani, tell him that let me take the spot and put the reins in my hands."
What did you understand Basciano to be referring to with Vic Juliani?
A At that time he was my investigator, Vic Juliani.
Q And what, if any, service was Vic Juliani providing in addition to being an investigator?
A Vinny would give him a message to give to me and I would give a message back.
Q That's -- where were you at the time?
A I was incarcerated. I was in MDC Brooklyn.
Q And where was Mr. Basciano at the time?
A He was in the street.
Q What year were you incarcerated?
A Excuse me?
Q What year were you first incarcerated?
A January 9, 2003.
Q Approximately what time frame was Vic Juliani passing messages for you?

A Sometime in 2003.
Q What about Mr. Lee, approximately what time frame was Mr. Lee passing messages?
A Vic Juliani came and brought me a message. He says, Junior Chili wants to make ten guys. I looked at him. I said, He wants to make ten guys? I said, listen, don't even answer Vinny's call, just disregard it because you got nothing in writing, just leave it alone.
Q So if we can focus on the question, approximately what time frame was Vic Juliani passing messages?
A 2003.
Q What about Mr. Thomas Lee? Approximately when was he passing messages?
A He come in the picture after Vic Juliani couldn't do no more messages.
Q So what year approximately?
A 2003.
Q If I can then direct your attention to line 6, Basciano says, "Tell him that let me take the spot."
What did you understand "him" to be a reference to?
A "Him" is me.
Q "Let me take the spot." What is "the spot"?
A That Vinnie Basciano wanted to be the acting boss.
Q And then in line 9, you state, "I had no problem with you there then." What did you mean by that?

A I had no problem there. He put himself there. I left it.
Q If I can now direct your attention to page 68, lines 18, 19 and 20, you mention a phrase "Patty took it as, you were giving him a cigar, putting him there." And Basciano responds, "I didn't give Patty a cigar, Bo."
What did you understand this reference to be, giving somebody a cigar? What does that mean?
A Patty was a captain in the Bonanno family and Michael Nose was a wiseguy under Patty from the Bronx so what Vinny did is he took him from Patty and made him the acting boss and Patty took it as a cigar.
Q What's a cigar?
A A stick it up your ass.
Q Okay. If I can now direct your attention to page 68, bottom of the page, we'll start with line 29 and play clip 13.
(Audio played.)
Q (By Ms. Merkl) If I can now direct your attention back to page 69, starting on line 28. Basciano starts, "Oh, let me tell you about Joe's kid so, you should know."
Who did you understand Basciano to be referring to when he said "Joe's kid"?
A Talking about Joe, Sr., Joe, Sr.'s son, Joe Saunders, Jr.
Q And then on line 31 to 32, Basciano continues, "There's a kid named Joe Bonelli around the Westside that was creating

f'ing havoc. Shot up the Whitestone villa, ah, shot up the restaurant."

If I can direct your attention to line 32, what did you understand "the Westside" to mean?

A Westside is the Genovese family.

Q And who did you understand Joe Bonelli to be around based on this portion of the conversation?

A He's an associate of the Genovese family.

Q Continuing on line 33, Basciano states, "Shot up the Whitestone Villa, ah, shot up the restaurant. Went to the owner's house. The owner's around Paulie. Shot up the house and Joe."

Who did you understand had shot up these locations?

A The guy Joe Bonelli.

Q Joe Bonelli? I'd like to then to continue to line 6 and 7. Basciano mentions, "Who, our friend Paulie. He's a friend." And you say, "Fat Paulie?" And on line 9, Basciano replies, "Yeah, Fat Paulie."

Who were you referring to in this portion of the conversation? Who is Fat Paulie?

A Fat Paulie is a wiseguy in the Bonanno family.

Q Do you know his full name?

A I don't know his last name.

Q On line 9, Basciano continues, "He shot up the owner's house, and then he made somebody call up the house and they

says, and F Nicky, meaning Nicky Santora."

On line 9, who is the "he" that shot up the owner's house? What was your understanding?

A Joe Bonelli shot up a guy that was around Fat Paulie's house.

Q And then Basciano mentions, "Nicky, meaning Nicky Santora."

Who did you understand Basciano to be referring to?

A Nicky Santora was a captain in the Bonanno family.

Q And Basciano continues. "Now, I go see Joey C., says Joey, go take care of it. Any help that you need, you do what you got to do."

What did you understand Basciano to mean when he said, "I go see Joey C."?

First of all, who is Joey C.?

A Joe C, Jr. He's a wiseguy in the Bonanno family.

Q And Basciano explained that he went to see Joey C., Jr. and said, "Go take care of it. Any help that you need, you do what you got to do."

What did you understand him to mean by that?

A He was telling him to kill him, to murder him.

Q Kill who?

A Joe Bonelli.

Q And Basciano continues. "We can't have them guys shooting up people's houses and saying F Nicky. I ain't f'ing

tolerating that. Do what you got to do."

What did you understand Basciano to mean by that?

A He's telling him do what you got to do. Murder him.

Q Murder who?

A Joe Bonelli.

Q For what reason?

A For shooting up the guy around Fat Paulie's house.

Q Now continuing around line 18, Basciano continues, "He comes back a week and a half later, now he tests me."

This portion of the conversation, what did you understand Basciano to be referring to when he said "he comes back and he tests me"? Who is the "he"?

A He's talking about Joe Saunders, Jr. He's a wiseguy in the Bonanno family.

Q And continuing, he says, "Listen to me, Randy went into Villa Sonoma. He went with a gun, he got drunk and he says he's the only one capable of killing anybody in this family. He says he was an ex-SEAL." He continues.

What did you understand Vinny Basciano, "he says," who is the "he" there?

A Joe Saunders, Jr., a wiseguy in the Bonanno family.

Q And the Randy that's mentioned, who did you understand that person to be?

A Randy Pizzolo.

Q And Basciano stated, "He comes back a week and a half

later, now he tests me," what did you understand Basciano to mean by "he tests me"?

A Joe, Jr. Saunders was testing Vinnie Basciano. He's more or less telling him now why don't you kill Randy Pizzolo.

Q How did you arrive at that understanding?

A Because if you read it, what he did.

Q I'm sorry?

A Because what he said. He said he was the only toughest guy in the family and he was talking like a jerkoff.

Q When you said that Joe Saunders was testing Vinny, what did you mean by that?

A The way I interpreted it, he was telling him why don't you kill Randy Pizzolo.

MR. GOLTZER: Object. Move to strike. Speculation.

THE COURT: Sustained.

MR. GOLTZER: Can the jury be --

THE COURT: Yes. The jury will disregard the last answer.

BY MS. MERKL:

Q If I can now direct your attention to line 29, you mention "bullpen." What is the bullpen that you're referring to there?

A I had to go to court and I was in the bullpen, in a holding cell.

Q And just to be clear, who did you see in the bullpen when

you went to court?
A Patty Defilippo, Johnny Joe, Anthony Donato and Vinnie Basciano.
Q And you mentioned, "I seen you on Friday," and then on line 31, you talk, "about everything," and Basciano says, "Right. Right. Right." And you continue on line 33, "You never mentioned one word about Randy."
Did you speak with Basciano in the bullpen about Randy?
A He never said a word to me about Randy in the bullpen.
Q Then on line 35 through 37, you continue, "The following Friday we had a co-defendant meeting."
What were you referring to with "the co-defendant meeting"?
A The next Friday, that week, Randy Pizzolo got murdered and I turned around and I said to him, I seen you last Friday and you talked about everything and you didn't tell me about to kill Randy Pizzolo, you didn't say nothing to me.
Q Just to be clear, continue on to page 71 at the top of the page, when you say, "That's when you tell me yous just clipped him. Why didn't yous tell me that Friday?"
Who were you referring to when you say "yous clipped him"?
A Vinnie Basciano.
Q Clipped who?

A Randy Pizzolo.

Q Continuing on lines 4, 5 and 6, you stated, "Why didn't you ask me that Friday? You didn't." And Basciano replies, "It was already in the works, Bo."

What did you understand Basciano to mean by that?

A I seen him a week later and the kid got killed that week, Randy Pizzolo, within Friday to Friday. The middle of the week, he got murdered.

I said I was in the bullpen with you last Friday, you didn't tell me nothing about murdering this kid. He said it was in the works.

Q What did you understand him to mean by "in the works"?

A That the word got out to murder him. He couldn't stop it.

Q It I can now direct your attention to --

MS. MERKL: Your Honor, this next clip isn't particularly long. I'm not sure just when the Court wants to take lunch.

THE COURT: We're waiting for lunch to arrive for the jury. Why don't we do that short clip and then we'll take our lunch break.

MS. MERKL: Very good, your Honor.

BY MS. MERKL:

Q Turning to the bottom of page 71, line 25, clip 14.

(Audio played.)

Q (By Ms. Merkl) If I can now direct your attention to line, page 71, Mr. Massino. Line 25 on page 71.

You mentioned "Randy." Who are you referring to with "Randy"?

A Randy Pizzolo.

Q If I can now direct your attention to page 72, lines 12 through 15. Basciano starts, "No, you're right, Bo. This, this kid though -- listen this kid deserved it."

What was your understanding of who Basciano was referring to when he said "this kid"?

A Randy Pizzolo.

Q If I can now direct your attention to page, line 17, excuse me, on page 72. Basciano continued, "I went to see Tony Parkside." Who is Tony Parkside?

A Tony Parkside is a captain in the Genovese family.

Q Do you know where Tony Parkside is based?

A 108th Street in Corona.

Q What's located at that?

A Parkside restaurant.

Q If I can now direct your attention to page 72, line 31, you again mention "Randy."

So the record is clear, who are you referring to there?

A Randy Pizzolo.

Q If I can now direct your attention to the top of page 73.

Basciano states, "I told Dominick, I told Dominick to tell this kid to start a new life in Florida, stay away from us."

Who did you understand Mr. Basciano to be referring to when he mentioned Dominick?

A To tell the kid Randy Pizzolo to stay away.

Q But who is "Dominick" in this portion of the question?

A Dominick Cali is a captain in the Bonanno family.

Q Basciano continues, "Dominick told him, came back to me, that he told Al Perna who's around Tony Parkside that he can't going to f'ing Florida, he'll stay right here."

What did you understand Basciano to mean when he said, "He ain't going to f'ing Florida"?

A Randy Pizzolo.

Q Do you know Al Perna?

A No, I don't.

MS. MERKL: Your Honor. I have no further questions with regard regards to this clip

THE COURT: All right. We'll take our lunch break until 2:15.

All rise for the jury.

(Jury out at 1:15 p.m.)

THE COURT: The witness may stand down. Do not discuss your testimony with anyone. Everyone else may be seated.

THE WITNESS: Yes, your Honor.

(Witness excused.)

THE COURT: Before we go to lunch, my very observant law clerks took a look at GX405T-1.

MS. MERKL: Your Honor, we just noticed that ourselves. It was our error in including them in the binders and we actually just discussed removing them over the lunch break.

THE COURT: You understand what I'm talking about, Counsel. It will be taken care of then over lunch?

MS. MERKL: Absolutely, your Honor.

THE COURT: That's fine. Thank you very much. You can take my copy too.

Now, do you have a response to the letter that I received this morning from the government regarding that evidentiary issue?

MR. GOLTZER: If your Honor recalls the argument that I made at the sidebar, I take the same position, citing the character issue and the issue 403.

THE COURT: Okay. All right. I'll give you an answer at the end of the lunch period.

We'll take -- yes?

MS. MERKL: In either event, the government does reiterate its request, that the transcript be corrected because I think everyone agrees that that was an error in the transcript.

MR. GOLTZER: I thought I really did hear that so I'm not going to argue with that. I accept the government's representation. If that's what the stenographer or the court heard it --

THE COURT: Well, it has to be -- no. The -- you heard --

MR. GOLTZER: I heard what the government said they heard.

THE COURT: Right, and I think that's correct, so I'm going to order the transcript corrected with regard to that phrase.

MR. GOLTZER: I have no objection to that because I think that's what really happened.

THE COURT: All right. And I'll rule on your request or your motion with regard to that phrase being before the jury at the end of the lunch hour.

MR. GOLTZER: I sent a letter at about 1 o'clock in the morning to your law secretary which your Honor has seen which referred to what I thought was the actual transcript. May I respectfully withdraw that letter.

THE COURT: Yes.

MR. GOLTZER: That letter now appears to be in error.

THE COURT: All right. I understand.

Is there any objection?

MS. MERKL: No, your Honor.

THE COURT: All right. Your application is granted.

MR. GOLTZER: It seems to be superfluous, Judge.

THE COURT: Right. Okay.

We'll take an hour for lunch.

MS. MERKL: Thank you. Your Honor, I'm sorry.

THE COURT: Is there something else?

MS. MERKL: Just it's a housekeeping matter really.

THE COURT: Well, before we go, let's do our housekeeping on the record.

MS. MERKL: There's been some question as to whether or not any of the parties are permitted in the courtroom during the lunch break and you just don't know what we're planning to do going forward.

Yesterday we were not permitted to stay and it's helpful to allow at least one or two of us to be able to make preparations, if necessary. I don't know how the defense feels about it.

MR. JASPER: We feel the same way, your Honor. Usually I come back in during the lunch break, you know, to work on things.

THE COURT: I think it's fine. As long as everyone is comfortable with it and both sides agree to it, I'm comfortable with it, too. All right?

MS. MERKL: Thank you, your Honor.

MR. JASPER: Thank you.

THE COURT: So you can go ahead --

MS. MERKL: Thank you, your Honor.

THE COURT: -- and follow that procedure.

MS. MERKL: Thank you.

THE COURT: Thank you.

(Luncheon recess: 1:20 p.m.)

(Continued on next page.)

A F T E R N O O N S E S S I O N

2:25 p.m.

(In open court; defendant present.)

(Jury and witness not present.)

THE COURT: All right, on the record. With regard to the objection of the defense regarding the phrase that was identified in the transcript at page 4851, 13 and 14. I overrule the objection. It is the Court's view that this evidence provides an indication of the strength of the defendant's relationship with the witness, Mr. Massino, and it deals with the nature of their relationship and the level of trust that Mr. Massino had, and the defendant as a leader of the Bonanno Crime Family.

The probative value of this testimony, including that the defendant, that Mr. Massino was trusted with all kinds of crime, including murder, certainly substantially outweighs any prejudice under 403, and so I overrule the objection. I am going to charge the jury when they come back regarding the 404B evidence, so that we have that on the record.

We're into the testimony of this witness and I think it's time that I charge the jury. Is there any objection?

MR. GOLTZER: Actually, we request it.

THE COURT: Oh, you request it? You don't have to request it. Yes?

MR. GOLTZER: We should have.

THE COURT: That's fine. Anything else?

MS. MERKL: Your Honor, I missed the last part. You're charging the jury about the 404B evidence?

THE COURT: Yes.

MS. MERKL: Just so we understand your Honor's plan, the charge, most of that evidence, the government's understanding is that it was introduced for purposes of establishing existence of the racketeering enterprise and it was evidence that was inextricably intertwine with the government's and so that is not 404B, and they are to consider whether the government has proved the nature of the enterprise, the existence of the enterprise's entity, whether it's engaged in that sort of activity.

THE COURT: I'm going to say, I'll read it to you, the section that deals with your comment.

MS. MERKL: Thank you.

THE COURT: The purposes for which such evidence is admitted are as follows:

One, as evidence of the existence of the charged enterprise; namely, the Bonanno Organized Crime Family, and as evidence that the Bonanno Organized Crime Family engaged in racketeering activity, and then a whole list of other things that the case law indicates we should inform the jury about or that the rule itself makes clear.

MS. MERKL: Thank you for that clarification.

THE COURT: Okay. Yes?

MR. GOLTZER: No. No. You're going to tell them that it's not to prove predisposition or --

THE COURT: Let me read it to you first, so that if you have any problem with it, I can hear it now. The charge will be: "You have heard and may hear again, during the course of the trial, evidence that the defendant engaged in conduct, including crimes other than the crimes charged in the indictment. Let me remind you that the defendant is not on trial for committing any acts not charged in the indictment.

"Accordingly, you may not consider evidence of these other acts as substitute for proof that the defendant committed the crimes charged; nor may you consider evidence of these other acts as proof that the defendant has a criminal propensity; that is, that he likely committed the crimes charged in the indictment because he was predisposed to do so."

MR. GOLTZER: Perfect.

THE COURT: Thank you.

Let's bring in the witness.

MS. MERKL: Your Honor, there is one other housekeeping issue that was brought to our attention over lunch.

THE COURT: Yes.

MS. MERKL: We would like to bring it to your attention at the side bar.

THE COURT: Yes.

MR. RILEY: Your Honor, will you hear an objection from the press for sealing the proceeding?

(Sidebar.)

THE COURT: Yes.

MS. MERKL: Your honor, I've been advised by my office that we received a number of press inquiries.

THE COURT: Yes.

MS. MERKL: For the audio recording, and we are obviously trying the case here and we are somewhat concerned about disclosing anything to the media without your Honor's approval. I also have some concerns about immediate release to the media, due to the potential, you know, to taint the jury pool.

THE COURT: You have a view on this?

MR. GOLTZER: I do. We are quite concerned if those tapes get out and they -- we believe in the free press too. We have an anonymous jury who has been told not to read or listen to anything. They will play, instead, bits out of context. If the free-press issue is paramount, it might be appropriate for their office to release a transcript as opposed to a tape. The tapes would be prejudice, in our view, and potentially deprive us of a fair trial and jury.

MS. MERKL: Technically, the transcripts are not in the public record, as they were admitted as an aid to the jury not in evidence, and we traditionally have not released transcripts. We let the press view the transcripts but we don't normally release the transcripts.

Under normal circumstances, obviously, the press is entitled to documents admitted into evidence. But in light of the concerns that we've discussed throughout the jury selection in this case, and the unanimous jury motion, I think both parties have some concern at this point. Obviously we would not do anything like that without getting guidance from your Honor.

MR. GOLTZER: It seems to me that His Honor has done everything to accommodate the press as necessary, by making sure they can hear the tape, take notes the same way they did take with oral testimony. They are not entitled to a trial transcript.

We, by the way, have been receiving requests from certain members of the press for a copy of transcripts. We're CJA and it would violate the rule, so we just won't do it.

THE COURT: But what I propose to do is simply state that I understand that a request had been made to the United States attorney's office for copies of the recordings that have been admitted into evidence and played, and the conduct

of the trial is within the sound discretion of the Court. And in as much as we had to call 1,000 people a over period of five months before getting a venire from which to select the final jury, and one of the major issues was the taint caused by articles in the press, I'm sensitive to that and I will try to avoid that with the jury, even though we've told them that they are not to watch or listen to anything in the media, whatever those media might be and, therefore, I'm exercising my discretion and overseeing the conduct of the trial to decline the invitation of the press but to offer the press the opportunity to see the transcripts here in the courtroom, provided, you know, by the government or the -- let's say the government, so we don't place this burden on the defense, but that they can't -- that I'm not permitting them to have the transcripts or the audiotapes until the trial is over.

MR. GOLTZER: Can I make a suggestion that you might find helpful? Rather than directing the government to provide the tapes, it might be helpful if the Court made a recommendation to the government so that they don't have anything to appeal or litigate over, and then the government decides -- I doubt very much the government would --

THE COURT: Do you want me to direct you or do you want a suggestion? I'm willing to do it either way. If they want to take this somewhere, you know, that's their right, but I think by virtue of what's going on in the media with regard

to this case, I believe firmly that in order to provide the defendant with a fair trial by an unbiased jury, I have an obligation to avoid turning these materials lose on the internet.

MR. GOLTZER: With full agreement.

MS. MERKL: That's fine with the government.

THE COURT: I'll tell you what to do.

MS. MERKL: Thank you, Judge.

MR. GOLTZER: Thank you, Judge.

THE COURT: That's under seal.

(Side bar ended.)

(Continued on the next page.)

(In open court; defendant present)

(Jury and witness not present)

THE COURT: Before we bring in the witness, I have been advised by the government that requests have been made to release audiotapes and transcripts of the conversations that have been the subject of testimony today and will be the subject of testimony for the balance of the day, I assume, and perhaps tomorrow.

And I've advised the government that I am instructing them not to provide copies of transcripts or copies of the audiotapes to the public, whether it's an individual or the media in connection with this case; although, if anybody wants to see a transcript during a break or after we complete our business today, they may request of the government and the government indicate they would be accommodating of any such requests.

The Court is taking this step in order to make absolutely certain that every effort is made to protect the due process rights of the defendant for a fair trial. We've advised the jurors repeatedly not to read, watch, listen to anything in the media or over the internet; however, my experience with the selection of this jury, where we called a thousand jurors to fill out questionnaires, and I interviewed over 400 people, I think, many of whom had became disqualified because of what they had seen or heard in the media.

In my authority to oversee the proper conduct of this trial, I'm not going to take a risk that people will be talking to jurors because they heard something or read something, mainly heard something over the internet or on a website or on the radio or on television with the voices of the parties, the defendant and the witness.

So that's my ruling. And at the end of the trial, if anyone wishes to have these materials released, you can; just let me know in a writing.

MR. GOLTZER: May we just approach for a moment, it's important.

MR. RILEY: I object again, your Honor --

THE COURT: Would you sit down or you're leaving. Next time you stand up in my courtroom without my permission, you're not coming back. Do you understand me? Do you understand me? You better answer me or you're gone.

MR. RILEY: I hear you.

THE COURT: And I don't want anyone else getting up either.

(Sidebar.)

(Continued on the next page.)

- SIDE BAR -

THE COURT: Yes?

MR. GOLTZER: We've just been told two or three hours ago, that a white notebook was given to the news. Would the Court inquire if anybody provided them with a copy?

MS. ARGENTIERI: Just to be clear, they asked us if they could read along with the tape. They understood they can't read along and copy it.

MR. GOLTZER: That's fine. We thought he had it to take.

MS. ARGENTIERI: No. No. That was just for their aid.

THE COURT: That's fine. I think that makes sense.

MR. GOLTZER: Absolutely. But can we be sure that they get it back?

MS. MERKL: We are making sure.

THE COURT: Let's not raise it. I've already done enough for one day.

(Side bar ended.)

(Continued on the next page.)

THE COURT: Let's bring in the witness.

(Witness resumes the stand.)

(Jury enters at 2:41 p.m.)

THE COURT: Please be seated everyone.

I'm going to give an instruction.

All right, members of the jury, before we proceed any further with testimony, I'm going to give you a limiting instruction as to certain of the evidence that has been provided thus far, and will be provided in the future during this case. And you will hear me give this instruction in the final jury instructions, and I may give this instruction again sometime during the presentation of evidence. So please listen carefully.

You have heard and may hear again, during the course of the trial, evidence that the defendant engaged in conduct including crimes other than the crimes charged in the indictment. Let me remind you that the defendant is not on trial for committing any acts not charged in the indictment.

Accordingly, you may not consider evidence of these other acts as a substitute for proof that the defendant committed the crimes charged; nor may you consider evidence of these other acts as proof that the defendant has a criminal propensity; that is, that he likely committed the crimes charged in the indictment because he was predisposed to do so.

The evidence of uncharged conduct by the defendant

is admitted for limited purposes and you may consider it only for these limited purposes. The purposes for which such evidence is admitted are as follows:

One, as evidence of the existence of the charged enterprise; namely, the Bonanno Organized Crime Family. And as evidence that the Bonanno Organized Crime Family engaged in racketeering activity;

Two, as evidence of the defendant's position or role within the Bonanno Organized Crime Family;

Three, as evidence of the development of relationships of trust between the defendant and others with whom he is charged with carrying out the charged crimes;

Four, as evidence enabling you to understand the complete story of the charged crimes;

Five, as evidence of conduct that is inextricably tied with the charged crimes;

And six, as evidence corroborating the testimony of other government witnesses.

Evidence of uncharged conduct by the defendant may not be considered by you for any purpose, other than the ones I have just listed.

And again, I may repeat this at a later date during the trial, but you will definitely have this statement as part of my charge as to the law at the time that you deliberate. And I would also say that when you deliberate, I will read the

charge to you in the courtroom and then each of you will receive a copy of the entire charge as to the law for you to refer to as needed during your deliberations. So you will be able to read it as much as you need during your deliberations as well.

All right, thank you for your attention. I will proceed now, Ms. Merkl, we'll continue your examination. I remind the witness that he is still under oath.

THE WITNESS: Thank you, your Honor.

MS. MERKL: Thank you, your Honor.

DIRECT EXAMINATION CONT'D

BY MS. MERKL:

Q Mr. Massino, I would like to continue playing the recording I've marked as Government's 405, with reference to the court transcript Government's Exhibit 405T, pertains to January 3, 2005, recording.

If I could just direct everyone's attention. We left off at page 73, line 17, where we will start with -- page 17 --

THE COURT: No, 73.

MS. MERKL: Correct.

THE COURT: Line 17?

MS. MERKL: Correct.

THE COURT: Okay, thank you.

(Audio played.)

(Audio stopped.)

BY MS. MERKL:

Q Mr. Massino, if I could direct your attention back to page 73. Do you have the page?

A Yes.

Q Line 17 to 18 you state, "We're going to bring the heat down on everybody."

What did you mean by "the heat" in that context?

A Once you start killing people you're going to bring heat down on the family.

Q Heat from where?

A From the FBI or any kind of law enforcement agency.

Q In response, lines 19 and 20, Basciano states, "I'll put a moratorium on it. Nobody does nothing."

What did you understand Basciano to mean, "I'll put a moratorium on it"?

A No more killing.

Q If I can now direct your attention to lines 28 and 29 you state, "I am here two years and we didn't hurt nobody."

What were you referring to when you said you were here two years?

A I was incarcerated. I was in jail for two years and I didn't hurt anybody.

Q And in that context when you used the word "hurt," what did you mean?

A Kill.
Q Now directing your attention to lines 31 and 32, you state, "I was home 11 years, I hurt nobody. I hurt one guy."
What did you mean you were home 11 years?
A The last 11 years that I was home, I killed one guy.
Q What individual was that?
A George from Canada.
Q I now direct your attention to the top of page 74, lines two and three you ask, "What you say I do exactly. Did everything go smooth?" And Basciano says, "I'm sorry. Yeah, perfect. Went perfect."
What were you referring to when you asked did everything go smooth?
A When I was there, everything went smooth.
Q What do you mean by that?
A We had no troubles. We had no problems.
Q When you were where?
A When I came home.
Q If I can now direct your attention to the bottom of page 74. You mention that Patty -- just to be clear, which Patty are you speaking about in this portion of the conversation?
A Patty Defilippo.
Q If I can now direct your attention to the top of page 75, you state, at lines two and three, "So when Tommy tells me

jocko, I said to tell Vinny. . ." Basciano replies, "Yeah" You continue, ". . . that I need facts, not opinions."

On line two when you mentioned Tommy, who were you referring to?

A Tommy Lee, the lawyer.

Q And when you use the term jocko, what does that term mean?

A To kill somebody.

Q So just to understand, what are you refer to in this portion of the conversation?

A Vinny was looking to jocko Patty Defilippo. And I says, "I don't want opinions, I want facts."

Q What was the time frame in which you received that message through Tommy Lee, the lawyer?

A 2003, August.

Q I now direct your attention further down on the page, on line 17 you begin to speak, "Like he tells me downstairs, he said he made a bad choice."

Who were you discussing at that portion of the conversation? Who is the "he" there. Take your time to get the context?

A He's talking about Vinny Basciano, that I made a bad choice by making him a captain.

Q But who is speaking. Who is "he told me downstairs"?

A Patty Defilippo.

Q And that was Patty's opinion?
A That was his opinion about Vinny.
Q That he expressed to you?
A Yes.
Q You have a statement here, lines 20 through 21, "You made a bad choice. Vinny -- is like John, and Vinny is no good."
Who is this reference to John?
A He's talking about John Gotti, Sr.
(Continued on the next page.)

DIRECT EXAMINATION (Cont'd)

BY MS. MERKL:

Q If I can now direct your attention to lines 29 and 30, Basciano is speaking.

He's -- actually, line 25, he begins, "The way he talked about me," and continues on to lines 28 and 29, "this guy, if the f'ing street is a problem to you and me."

Who did you understand Basciano to be referring to when he said "this guy"?

A He's talking about Patty Defilippo.

Q When Basciano told you that Patty Defilippo was a problem to you and me, what did you understand him to mean?

A He was looking to murder him.

Q Why?

A That he would be a problem for me and him.

Q In what respect?

A I got no idea. I had no problems with Patty Defilippo.

Q If I can now direct your attention to page 77, line 17 and 18. Basciano states -- actually, start at 16.

"No. Listen, this is a selfish statement I'm going to make. You got to be the guy. Let me make the shots. You're the guy."

What did you understand Basciano to mean by "you got to be the guy"?

A He wanted to run the family with my backing, so if I did

back him, everybody would go along with whatever Vinny wanted to do, Basciano.

Q When he said "the guy," what did you understand that to be a reference to?

A He wanted to be the acting boss.

Q If I could now direct your attention to lines 23 through 25, Basciano finishes, "You have to appoint a boss, Bo. They're going to listen. Whoever you appoint, that will make them listen."

What did you understand Basciano to mean when he's talking about "they"? Who are the "they" and the "them" in this context?

A He's talking about all the captains in the Bonanno family. They would listen to me.

Q Listen to you under what circumstances?

A If I says that means the acting -- that Vinny's the acting boss, they would listen to him.

Q That was your understanding of what Basciano meant?

A Yes, it was.

Q Just to be clear at this time, January of 2005, what was your understanding of Basciano's position in the family?

A He made himself the acting boss.

Q If I can now direct your attention to line 33, Basciano continues. "If I'm there, listen to me."

What did you understand him to mean by "there"?

A He's telling me he's there for me.
Q If I can now direct your attention to page 79, the top of the page.
Basciano starts with, "Michael went to Dominick and wanted to know all the things that I have in the street. Dominick caught a delusion."
Just to be clear, which Michael do you understand Basciano to be referring to here?
A He's talking about Michael Nose, the acting boss of the Bonanno family, and Dominick Cali, a captain of the Bonanno family.
Q And when he stated that "Michael wanted to know all the things that I have in the street, Dominick caught a delusion," what did you understand him to mean by that?
A He was on a panel and he wanted to know what's going on with the Bonanno family.
Q And when he stated "Dominick caught a delusion," what did you understand that to mean?
A Dominick didn't like the idea that Michael Nose was questioning him.
Q If I can now direct your attention to the middle of the page, you and Basciano speak about somebody named Alfred.
Who is Alfred?
A Alfred was my partner in Casablanca. He's a wiseguy in the Bonanno family.

Q And Casablanca was your restaurant?
A Yes, it was.
Q If I can now direct your attention to the latter portion of page 79, starting in line 22.
Basciano starts, "So I sent word back to Dominick. He says, "Dominick, send Michael my love. Tell him I'm behind him a thousand percent. Remember what I told, I sent a note with Tommy Lee," and he continues.
What did you understand him to mean when he said he sent word back to Dominick?
A He sent a note to Tommy Lee to give to Dominick to tell Michael something, Michael Nose.
Q If I can now direct your attention to the top of page 80. You state, "You know we're talking about La Cosa Nostra," and Basciano says, "Yeah."
Can you just refresh the jurors' recollection what La Cosa Nostra is?
A La Cosa Nostra means this thing of ours, also known as the Bonanno family.
Q If I can now direct your attention to line 5, the mention of Vic.
Which Vic are you referring to in that portion of the conversation?
A Vic Juliani was my private investigator.
Q And you continue to say, "Vic was a boob" and Basciano

continued, "Bo, Bo, the worst."

What are you speaking about in that portion of the conversation?

A That he was a boob.

Q In what regard?

A He brought me a list saying there's ten names that Junior Chili wanted to make. I said what? Don't take no more messages from Vinny. Just disregard them, don't answer them, because I knew it couldn't be true.

Q So in the context of passing messages, what did you conclude about Vic?

A That he was a boob.

Q Mr. Massino, I'd like to now direct your attention to page 80, line 13. We'll play clip 16.

(Audio played.)

Q Mr. Massino, if I can direct your attention back to page 80, line 14, Basciano mentioned the machines, and mentions Sally Daz.

What did you understand Basciano to mean when he said "the machines"?

A Poker joker machines.

Q Is this the same Sally Daz you mentioned before?

A Yes, I did.

Q I now direct your attention to page 82. On the top of page 82, line 2, you mention a Johnny Palazzolo.

Who are you referring to?
A Johnny Palazzolo is a wiseguy in the Bonanno family.
Q Is this the same Johnny Palazzolo you testified about yesterday?
A Yes, it is.
Q If I can now direct your attention to page 83, for the passage that begins at line 10, I'd like to zero in on the sentence beginning on line 11 where Basciano states, "All right. What I'm gonna to do, my son comes to see me tonight. I'll tell him I'm in the bullpen. I was with the other guy."
Starting with that sentence, what did you understand Basciano to mean when he said, "My son comes to see me tonight, I'll tell him"?
A Me and Vinny were in the bullpen together and he was going to get a visit that night and he was going to tell him to pump up Louie Electrician to make him a captain in the Bonanno family.
Q And let me ask you, the bullpen that Basciano referred to in this conversation, where were you when this conversation was recorded?
A That's in the bottom of the courthouse.
Q No, where were you when this conversation was recorded?
A In the bullpen.
Q Which bullpen?
A A waiting cell.

Q Right, but where were you?
A Brooklyn, MDC.
Q Okay. And that was the bullpen on the roof deck you described before, the rec cage?
A Yes, it is.
Q And when Basciano continued, "I was with the other guy," what did you understand him to mean by "the other guy"?
A He's talking about me as the other guy.
Q And what did you understand Basciano to mean when he said, "Bump Louie Electric, the other kid. We'll put him on hold because Dominick wanted to put him on hold"?
A To make Louie Electrician a captain in the Bonanno family and Joey Gambina, not to make him, just to leave him alone.
Q So when he referred to "the other kid," you understood that to be a reference to whom?
A Joey Gambina.
Q If I can now direct your attention to page 84, lines 23 and 24, you state, "I was on the floor with Bruno."
Who were you referring to?
A Anthony Indelicato. He's a wiseguy in the Bonanno family.
Q And then on line 32, Basciano states, "I think he might get pinched."
Who was, who did you understand Basciano to refer to when he mentioned "he" in that sentence?

A He's talking about Anthony Indelicato, also known as Bruno.
Q When he said "Bruno might get pinched," what did you understand that to mean?
A That he's going to get pinched for murder.
Q Did you have an understanding of which murder?
A Yes, I do.
Q Which murder?
A Frank Santora.
Q If I can direct your attention to page 85 at the top of the page, line 3, Basciano states, "On the papers, it says me, Bruno and a corrections officer with that homicide."
What did you understand Basciano to be referring to when he said "that homicide"?
A Frank Santora.
Q And when he stated, "Me, Bruno and a corrections officer," who did you understand him to be referring to when he mentioned the corrections officer?
A He was talking about Dominick Cali, but Dominick Cali wasn't a correction officer. He was married to a correction officer. There was a misunderstanding.
Q If I could now direct your attention to line 9, actually 8 and 9, Basciano mentions Louie and Tony.
Who did you understand him to be referring to when he mentioned Louie?

A He's talking about Big Louie Tartaglione and Tony is Tony Green. They're both wiseguys in the Bonanno family, they're captains.

Q And in this context, Basciano states, "There's a tape out there that Tony Urso told Louie."

By the time you had this conversation, did you have an understanding of what Basciano meant when he said, "There's a tape out there" when Tony Urso told Louie something?

A Yes.

Q What was your understanding?

A Big Lou was wearing a wire.

Q And when Basciano continues, "Louie asked Tony about the shotgun and Tony went back to him and said Vinny has nothing to do with it, I'm going to beat the murder."

What did you understand Basciano to be referring to when he mentioned the shotgun?

A Talking about shotgun, killing the kid, Frank Santora.

Q Mr. Massino, I direct your attention to page 86, line 18, and we'll pay clip 17.

(Audio played.)

Q (By Ms. Merkl) Mr. Massino, if I can direct your attention back to page 86, line 25.

A Yes.

Q Basciano begins, "I tell you one thing, Dominick had a big hair up his nose with Michael."

What did you understand Basciano to mean by that?
A He's talking about Dominick Cali, Dominick Cali is talking about Michael Nose, the acting boss of the Bonanno family.
Q What did you understand him to mean but "he had a big hair up his nose"?
A He had a bug up his ass. He has an attitude.
Q If I can direct your attention to the bottom portion of that passage, it begins, "Listen to me, Dominick, because Dominick says, Vinny, it's getting out of hand. Everybody is doing what they want to do."
What did you understand Basciano to mean by that?
A There ain't nobody listening to nobody. They were waiting to hear from me.
Q If I can now direct your attention to page 87, lines 16 through 18. Basciano states, "I go down tonight, speak to Vincent. What do you want me to tell Vincent, my son?"
What did you understand Basciano to mean in that portion of the conversation?
A He wanted to give a message to his son on a visit.
Q I now direct your attention to page 88, lines 4 and 5, Basciano stated, "It's your show. I'm only over here running it."
What did you understand Basciano to mean by that?
A He's saying "it's my show," he's there running it for me.

Q Running what?
A The family, the Bonanno family.
Q If I can now direct your attention to lines 8 and 9, Basciano continues, "All right, now you intend to put Jerry out there, Michael and Anthony."
Who were you, who did you understand Basciano to be referring to when he mentioned Jerry?
A Jerry Asaro was a captain of the Bonanno family. Michael Nose is the acting boss of the Bonanno family and Fat Anthony is the acting consigliere of the Bonanno family.
Q When Basciano said, "You intend to put Jerry out there," what did you understand him to mean by that?
A Put him on a panel, but it would be the three of them.
Q Panel for what purpose?
A To run the family.
Q If I can now direct your attention to the middle of the page, lines 17 and 18, and Basciano states, "For the sake of the conversation, I cop out to six or seven years."
What was your understanding of the term "cop out"? What does that mean?
A If he took a plea deal with the government, if he settled, if the government offered him five years and he agreed to take five years.
Q If I could now direct your attention to lines 22 through 25, Basciano continues, "Okay, what position would you want me

at? You want me at acting boss, you want me to take the top spot and just go over with them? What do you want?"

What did you understand Basciano to be asking you at that point?

A He wanted to continue to be the acting boss.

Q If I can now direct your attention to the bottom of the page, line 32, Basciano continued, "As you know, they gonna listen to me."

What did you understand them to mean when he said they are going to listen to him?

A The Bonanno family is going to listen to him.

Q Now I'd like to direct your attention to page 89, line 14, and we'll play clip 18.

(Audio played.)

Q (By Ms. Merkl) If I can now direct your attention to the top of page 90.

At the top of page 90, you mention a Bruno. Basciano replies, "Blame it on somebody else. Right."

And you continue to speak about an individual and you ask on line 6, "What does Bruno know him from?"

First of all, who's the Bruno that you're speaking about?

A Talking about Anthony Indelicato, also known as Bruno. He's a wiseguy in the Bonanno family.

Q And then on line 6, you ask, "What was Bruno know him

from?" And Basciano replies, "Right. He told me he knew him since he was a baby."

Who did you understand Basciano to be referring to when "he told me he knew him"?

A He's talking about Anthony Aiello, also known as Ace.

Q And what did you understand Basciano to mean that Bruno told him that he knew Ace since he was baby?

A He's saying, more or less, that Bruno is vouching for him, and that's how he made him.

Q If I can now direct your attention to page 94. The middle of the page, lines 13 and 14, you mention that, "This is a mess my brother-in-law left me" and Basciano replies with "Yes."

What were you referring to when you said, "This was a mess my brother-in-law left me"?

A Those guys got pinched for murder, and I was paying the tab.

Q And what was the reference to your brother-in-law a reference to?

A That he gave orders to murder somebody, and the guy got pinched, and I paid the guy's lawyer fee.

Q What happened to your brother-in-law by that point?

A He was pinched.

Q What did he choose to do?

A He cooperated.

Q If I can now direct your attention to page 95, line 20 and then 21, you have, there's Basciano speaking about a Barney. Who was he referring to when he said "Barney"?
A Barney is a captain with the Genovese family.
Q When you say, "Basciano asked how long was Barney here for?" What did you understand Basciano to be referring to when he said "here"?
A How long was he in the SHU, how long was he locked down for.
Q And the segregation unit --
A Yes.
Q -- you were housed in at that time?
A Yes. And I told him 31 days.
Q If I could now direct your attention to page 97, line 11, you mention, "You got this job."
What job are you were you referring to?
A Running the family. Bonanno family.
Q I now direct your attention to later on in the page, Basciano describes a guy named Glen in a wheelchair, and continuing onto the next page, a guy named Mike.
In general terms, what are you and Basciano speaking about during this portion of the information?
A They're trying to say that he released both guys, which I didn't. I released one guy, Mike. The guy Glen in the wheelchair, I know nothing about him.

Q And when you say you released them, what do you mean by that?
A The kid Michael had came to Louie Bagels, which is the boss of the Lucchese family. He asked for a favor and I gave it to him.
Q If I can direct your attention to lines 15 and 16, Basciano states, "Luccheses aren't going to take one of our guys."
What did you understand Basciano to mean by that?
A He's talking about the guy in the wheelchair, Glen.
Q And this was in reference to your statement that you had released individual, an individual to the Lucchese family?
A Yes.
Q If I can now direct your attention to the bottom of page 98, Basciano states, "So what?"
Just to be clear, starting on line 29 and 30, you begin, "Then Joe is worried about the son getting pinched."
Who's the Joe you're referring to in that part of the conversation?
A Joe Saunders is worrying about his son getting pinched, Joe Saunders, Jr., which is a wiseguy in the Bonanno family.
Q Then Basciano states, "So what? He shouldn't put him in the f'ing life."
What did you understand Mr. Basciano to mean when he said "f'ing life"?

A That he should have never brought him up to make him, to be a wiseguy in the Bonanno family.
Q Is the "life" a term of art?
A Excuse me?
Q Does the "life" mean something in organized crime?
A Yes.
Q What does it mean?
A You're a wiseguy. He shouldn't have put him in this life.
Q If I can now direct your attention to the top of page 99, it's a discussion of cleaning up blood.

Do you know what that's, what did you understand that to be a reference to?
A They killed Boot's son in Joe Saunders' club, and they got rid of the body, and Joe Saunders' club and Joe's son cleaned up the blood in the club.
Q If I can now direct your attention to page 100, line 7 and 8, Basciano begins, "He wasn't involved. He wasn't involved."

What did you understand Basciano to be referring to?
A He's talking about Joey Gambina now.
Q And what did you understand him to mean, "Joey Gambina wasn't involved," involved in what?
A In the murder of Randy Pizzolo.
Q And Basciano continues on line 10, "I'm not going to do

him."

What did you understand Basciano to mean by that?

A They're not going to straighten him out. They're not going to make him a wiseguy in the Bonanno family.

Q Which person?

A Joey Gambina.

Q Now directing your attention to line 11, you state, "See when I asked you, who did the work, what do you think I ask you for?"

What were you referring to when you said, "the work," in that portion of the conversation?

A Who are the guys that killed Randy Pizzolo.

Q And then on line 19 and 20 you state, "We ain't supposed to talk about these things."

What did you mean by that?

A Ain't supposed to talk about murder.

There's only one person who can ask you about murder, and that's the boss.

Q Lines 21, 22, Basciano continues. "I think it was, I'm thinking it was Dominick and Ace."

What did you understand Basciano to mean when he said, "I'm thinking it was Dominick and Ace"?

A They were the two shooters that killed Randy Pizzolo.

Q That was your understanding?

A That was my understanding, yes.

Q And then direct your attention to lines 26 through 31.

Basciano states, "Bo, I'm in here now. They told, I told him who to use."

Starting with the first sentence and he says, "I'm in here," where did you understand him to mean when he said "in here"?

A He's in jail with me.

Q Now, continuing Basciano states, "They told, I told them who to use."

What did you understand them to mean when he said, "I told them who to use"?

A Vinny Basciano told them who's to kill Randy Pizzolo, who did he use to do the shooting.

Q And then continuing on line 27, Basciano said, "He told me that this Joey Gambina."

What did you understand him to be referring to when Basciano used "he," "He told me"?

A Dominick was high on Joey Gambina, Dominick Cali.

Q And then directing your attention to line 28, Basciano continues. "He liked them and then word came back to me. He didn't handle himself the right way."

In that portion of the conversation, who did you understand hadn't handled himself the right way?

A Joey Gambina, that he must have been there and he dogged it.

Q When you say "dogged it," what do you mean by that?
A He didn't pull the trigger.
Q If I can now direct your attention to page 101, line 6 and 7, you state, "Will you give the work to Dominick?"
When you said the "work," who are you referring to?
A The murder of Randy Pizzolo.
Q If I can now direct your attention a little bit later on the page, you state, "Well, you don't want these, you don't want these guys to think that yous clipped Randy, so you are going to make them paranoid."
Who are you referring to when you said "these guys"?
A The guys that are on the panel, the guys that were supposed to be running the family, Michael Nose and Fat Anthony Rabito.
Q Directing your attention to lines 22 and 23, Basciano stated, "They did not say nothing. They have to have an idea because he was around us."
Who did you understand Basciano to be referring to when he said "he was around us"?
A He's talking about Randy Pizzolo.
Q When he said "he was around us," who did you understand the "us" to be?
A "Us," but he really meant he was around him.
Q I now direct your attention to the portion of the conversation that starts with lines 24 through 31.

"Let me begin. Listen to what I tell you. Now you are going to get, these guys are going to get hallucinations. Basciano states every time we call for them, we state since Vinny's clipping, right, very good."

Basciano answers, "Right. Every time we f'ing call for him, what are we, gonna come out? Right."

What did you understand Basciano to mean by "gonna come out"?

A In other words, if he sends somebody, they're going to be spooked that he's going to kill them, and they're not going to come back. They're not going to come out.

Q If I can now direct your attention to page 102, lines 3 and 4, Basciano states, "I will put a moratorium on it, I'll --"

What do you understand him to mean by that?

A He's gonna send the word out to who's ever on, Michael Nose and Dominick, no more killing, put a moratorium on it.

Q I'd like to stay on page 2, direct your attention to line 7 and we'll play the final clip of this recording.

(Audio played.)

Q (By Ms. Merkl) If I could direct your attention, Mr. Massino, back to page 102, line 20.

A Yes.

Q Okay? Line 20 on page 102, Basciano states, "Yes, me, I would close the books for five years."

What did you understand Basciano to mean by "close the books"?
A He wanted to close the books for five years where you can't make no new members in the Bonanno family.
Q If I can now direct your attention to page 103, lines 8, 9 and 10, you mention, "And when I told Joe, you know what Joe told me? He told Tony that you got Tony's ear."
Who were you referring to in that portion of the conversation when you refer to "Joe"?
A Joe Saunders, Sr., is a captain in the Bonanno family.
Q And when you stated, when you mentioned Tony, who were you referring to by Tony?
A Tony Green. He's a captain in the Bonanno family.
Q And when you stated that "Joe blamed Tony that you got Tony's ear," what were you referring to?
A Joe Saunders was blaming Vinny for getting Tony's ear, that Tony was listening to Vinny Basciano.
Q And at that point in time, approximately when did that message come from Joe C.?
A I was on the floor with Joe C.
Q So what year are we speaking about?
A 2004.
Q And at that point in time, what was Tony in the Bonanno crime family? Who was Tony?
A Tony was a captain, and I put him on panel in the Bonanno

family. I put a three-man panel there.
Q So he was on the administration?
A Yes, he was.
Q If I could now direct your attention to page 106, line 7, you mention a Louie Restivo. Who is Louie Restivo?
A Louie Restivo is a wiseguy in the Bonanno family.
Q Do you know whose crew Louie Restivo was in?
A Louie Restivo was reporting to Joe Saunders, that was his captain in the Bonanno family.
Q If I could now direct your attention to page 107, the next page.

Basciano mentioned Dominick in lines 9, 10, 11 and 12. Which Dominick did you understand Basciano to be referring to in this portion of the conversation?
A Talking about Dominick Cali.
Q And just to be clear, you've never met that Dominick, is that right?
A Never met him.
Q If I could now direct your attention to page 108, line 6. Basciano mentions, "You get down before me and maybe try to pull me down."

What did you understand Basciano to mean by that?
A If I went back down on my floor on the fourth floor, he wanted to come on the fourth floor with me, if I can see if I can pull him down to meet there with him.

Q Thank you, Mr. Massino.

MS. MERKL: I have no further questions regarding the January 3, 2005 recording.

If I could now direct your attention to transcript 406T in your binders.

Your Honor, I don't know what the schedule is in terms of the afternoon break. I'm not sure what your Honor's preference is today.

THE COURT: I think we should continue for about another half hour and we'll take a break.

MS. MERKL: Your Honor, I'll try to find an appropriate breaking point.

THE COURT: Thank you.

Q (By Ms. Merkl) Just to be clear, Mr. Massino, after making this initial recording, you made another recording with Mr. Basciano a few days later?

A That's correct.

Q I'd now like to direct your attention to the transcript that's been marked as 406T, and we'll begin playing that transcript from the beginning.

MS. MERKL: Play the tape.

(Audio played.)

Q Mr. Massino, directing your attention back to page 2, please.

A I'm sorry.

Q Have you found the page?
A Yes, I did.
Q Just to orient everybody, where were you when you recorded this conversation?
A I was in Brooklyn MDC on the second floor medical center.
Q And when, where did you see Basciano?
A Went up on the roof, nine south, rec cage.
Q And the rec cage you're referring to, is it similar to the rec cage you were in when you made the prior recording?
A Same cage.
Q And were you and Basciano in the cage together up there?
A No, he wasn't.
Q Where was Basciano in proximity to you?
A This close to me.
Q In a separate cage?
A Separate cage. There was a cage between us. Maybe 4 or 5 inches from me.
Q And was anybody else in your cage?
A There was nobody. That Friday was just him and me. There was nobody in none of the cages.
Q So you two were alone on the rooftop?
A Correct.
Q If I can direct your attention at the bottom of page 2, line 27, you mentioned your sugar's been good.
Do you suffer from a medical condition?

A I got sugar diabetes.
Q And that reference there, is that a reference to your condition?
A That's what it's in reference to.
Q If I can now direct your attention to page 3, lines 9 through 11, you begin, "I might be indicted again."
Basciano replies, "For what?"
You state, "Conspiracy for murder."
At this point in the conversation, did you actually believe you were going to be indicted again for conspiracy to murder?
A That's what they said.
Q Who said it?
A The lawyer said it.
Q And at the point that you were having this conversation, what murder were you referring to?
A Randy Pizzolo.
Q Did you actually believe you were going to be indicted for the conspiracy?
A I had no idea.
Q Were you involved?
A No, not at all.
Q If I can now direct your attention to the bottom of the page, line 22 through 24. You state, "But you can't play with me. The other day you played with me, and I let it go when

you were downstairs."

What were you referring to when you said "downstairs"?

A Co-defendant meeting.

Q If I can direct your attention to page 4. You begin with, with this Randy, who were you referring to when you said Randy there. Same Randy?

A Excuse me. Randy Pizzolo.

Q If I could now direct your attention to line 3, you say, "No, no. I mean, who knows about it?"

What were you referring to when you said it?

A Who knows about you killing Randy Pizzolo, who knows about it.

Q It was a reference to the murder?

A Yes.

Q And Basciano states on line 6 through 8, "All practical purposes, nobody could think that it came from you, nobody, nobody, nobody."

And then on line 10, Basciano continues, "Dominick knows about it, that's it."

What did you understand Basciano to mean in those lines?

A That he gave the work to Dominick Cali to kill Randy Pizzolo, and only he knew about it.

Q If I could now direct your attention to line 12.

Basciano states -- I'm sorry, line 11, you ask, "Who were, who were the guys that did it?"

What is it a reference to?

A Who were the guys that were involved in killing Randy, Randy Pizzolo.

Q And then Basciano replied with, "I don't know, Bo, I don't know."

A Yes.

Q Now, directing your attention to line 15, Basciano stated, "No, listen to me. It wasn't him, I don't think."

That portion of the conversation, who did you understand Basciano to be referring to when he said "him"?

A Joey Gambina.

Q If I can now direct your attention to line 22, Basciano states, "Dominick's a stand-up kid."

What did you understand Basciano to mean by that?

A He's telling me I got nothing to worry about, I'll never talk about the murder of Randy Pizzolo, he's a stand-up kid.

Q What does it mean to be "a stand-up kid"?

A That the guy is never gonna flip.

Q If I can now direct your attention to page 5, line 3. You mention Alfred.

Who's the Alfred that you're speaking about in this portion of the conversation?

A Alfred was my partner in Casablanca. He's a wiseguy in

the Bonanno family.

Q And then on line 6, Basciano states, "It can't be for that, Bo. It can't be for that."

What did you understand Basciano to mean?

A He's trying to tell me that I'm not going to be in conspiracy to murder Randy Pizzolo, if the indictment fell that it wouldn't be for that.

Q If I can now direct your attention to lines 11 and 12. You state, "And there's still trouble out there. They're waiting for me. Michael ain't moving. He's waiting here for me."

What did you mean by, "there's still trouble out there"?

A That nobody was going to listen to Vinny Basciano anymore. They're waiting to ear on me.

Q And that, your observation to that effect was as of January 2005?

A Correct.

Q And then on lines 19 and 20, Basciano stated, "But I already told them it's coming from you. I sent word yesterday."

What did you understand Basciano to mean by that, "I sent word yesterday"?

A I got no idea what word he sent out.

Q Well, what did you understand it to mean by that he sent

word?
A I got no idea.
Q If I could now direct your attention to line 28, the lead-in to line 28 it says, "Dominick, I trust. I take your word."
And Basciano says, "A thousand percent."
What did you understand Basciano to mean by that?
A That he's telling me you don't have to worry about Dominick. He's there a thousand percent. He'll never become a cooperator.
Q Directing your attention to page 6, top of the lines 2 and 3, Basciano states, "And Bruno, what about Bruno? Bruno, I trust, too."
Just to be clear, I think everyone probably knows by now, who are you speaking about when you mention Bruno?
A Bruno Indelicato, Anthony Indelicato, also known as Bruno. He's a wiseguy in the Bonanno family.
Q When Basciano told you he trusts Bruno, too, what do you understand him to be referring to?
A That he'll never flip.
Q And prior to your conversation with Basciano, were you aware of his and Bruno's participation in the crime together?
A Yes, I was.
Q Which crime was that?
A He was there when they killed Frank Santora. He drove a

truck.
Q That's the murder you testified about yesterday?
A Yes, Nick Santora -- Frank Santora. Excuse me.
Q Now, sticking with page 6, I'd like to direct your attention to line 8 and we'll play the next clip.
(Audio played.)
Q (By Ms. Merkl) If I can direct your attention, Mr. Massino, back to page 6 of 406T.
If I can direct your attention to the bottom portion of the page, lines 23 through 27. You mention a term "supersede."
What did you mean by that term?
A When you get indicted, I started out with one murder, I got indicted, and I wind up with seven murders. They kept superseding my indictment, every couple of weeks, every couple of months I got superseded six or seven times. So I tried to explain it to him.
Q Supersede is to change an indictment?
A They add another murder or another charge to your indictment.
Q Just to be clear, who adds another charge to your indictment, you said "they"?
A The government.
Q If I can direct your attention to lines 28 through 30, Basciano says, "Nah, it can't be with, Bo, Bo, it can't be

with this kid over here."

Who did you understand he referring to when he said "this kid over here"?

A He's trying to tell me that I'm not going to be indicted for conspiracy to murder Randy Pizzolo.

Q If I can now direct your attention to page 8, lines 27 through 29, Basciano states, "Michael's looking for his day in the sun. I put Michael there with your consent."

What did you understand Basciano to be referring to when he said "Michael"?

A That he's looking to run the family, looking to be the boss.

Q Michael who?

A Michael Nose, Mancuso.

Q And Basciano continues, "I put Michael there, your consent."

What do you understand Basciano to mean by "there"?

A Put him in that position, which I didn't do it. He did it and then told me.

Q If I can now direct your attention to page 9, starting at line 5, he begins speaking. "I wouldn't do that to you. It's just the same thing, I felt slighted the other day when you told me downstairs. You told me Joey Gambina, now you tell me do you the."

When you were referring to "downstairs," what were

you referring to?
A Co-defendant meeting.
Q And then in lines 10, 11, you continue, "No, no, but downstairs, you knew, you told me that in there."
Basciano replies, "Because that's how I set it up."
What did you understand Basciano to mean by that?
A He set up the Randy Pizzolo murder.
Q And what did he tell you was the manner in which he set it up during the co-defendant meeting?
A He told him who to use, Ace, Dominick, Joey Gambina.
Q If I can now direct your attention to lines 18 through 20, Basciano states, "Because he said that, from what I'm gathering, that he dogged it somehow or other."
Beginning on line 18, Basciano stated, "Because he says," what did you understand Basciano is speaking about in that portion of the sentence?
A He's talking about Dominick Cali. He's a captain in the Bonanno family.
Q And then he continues, "From what I'm gathering that he dogged it somehow or another," who is the "he" in that portion of the sentence?
A The guy that dogged that he's talking about is Joey Gambina who is an associate of the Bonanno family.
Q And just to be perfectly clear, when he said "dogged it," what did you understand it to be a reference to?

A I took it as he was one of the shooters, and he never pulled the trigger. He dogged it.
Q But it was a reference to what?
A Randy Pizzolo.
Q The murder?
A Yes.
Q If I can now direct your attention to page 10, lines 8 and 9. You state, "How many guys are tough guys until it comes to that?"

What were you referring to when you said that?

A I went this way: Murder.

MS. MERKL: I just want the record to reflect the witness is making a hand gesture.

THE WITNESS: Yes, I made a hand gesture.

THE COURT: What's the hand gesture?

THE WITNESS: Murder. Click.

THE COURT: Oh.

MS. MERKL: Like a gun.

THE COURT: Like a gun with his hand. Thank you.

THE WITNESS: Thank you, your Honor.

Q (By Ms. Merkl) I direct your attention -- and just to be clear, you made that hand gesture with Mr. Basciano?
A Yes, I did.
Q If I could now direct your attention to page 10, sticking on that page, going to line 19, play clip 3.

(Audio played.)

MS. MERKL: Does everyone have a feed?

THE JURY: Just went out.

(Audio played.)

Q (By Ms. Merkl) If I can now direct your attention to page 12, lines 4 through 6, you begin, "I'll be straight with you. You can't tell me, yeah, this guy, he killed him."

Basciano replies, "Bo, I'm not sure though Joe."

What are you speaking about in that portion of the conversation?

A I'm talking about Joey Gambina.

Q And where are you speaking about Joey Gambina?

A He says, "I'm not sure Joe."

Q And what did you understand that to mean?

A That he's not sure that Joey Gambina had anything to do with it.

Q Then continuing on lines 11 and 12, you state, "Now you used to talk the world of him, now you don't want to straighten him out. Why?"

Who are you speaking about in that portion of the conversation?

A Joey Gambina.

Q Turning your direction to the large passage at the bottom of the page, starting on line 21, Basciano begins, "My objective over here was with Joe Massino, not with Vinny

Basciano. I put everybody together as a tough guy and told everybody that this is you. It's not me."

What did you understand Basciano to mean when he said, "I put everybody together as a tough guy"?

A He put everybody there, and he's saying it's not for him, it's for Joe Massino.

Q Everybody where?

A In position.

Q In what organization?

A In the Bonanno family. Captains, acting underboss, acting consigliere.

Q If I can now direct your attention to the bottom of the portion of the page lines 31 through 32, Basciano continues, "I'm doing this right now for the good of this borgata."

What did you understand "this borgata" to be a reference to?

A That's also known as the Bonanno family, "this borgata."

Q If I can now direct your attention to page 13, the passage that begins on line 7, Basciano mentions Michael.

Who did you understand him to be referring to when Basciano mentioned Michael?

A He's talking about Michael Nose.

Q And now the bottom portion of that paragraph, Basciano mentions a Louie Electric. Who is Louie Electric?

A Louie Electrician is a captain in the Bonanno family.

Q And then he mentions Anthony Rabito?
A Anthony Rabito is acting consigliere of the Bonanno family.
Q And the Nicky that's mentioned here, who did you understand that to be a reference to?
A Nicky Santora is a captain in the Bonanno family.
Q Now, continuing later on the page, Basciano continues, starting on line 22, about a message.

Then on line 25, he states, "What I think, Michael moved too fast after I got pinched. He went to Dominick and started asking Dominick questions about what I had going on in the street. Dominick caught delusion because I know they had an argument."

What did you understand Basciano to mean in that passage?
A That Michael Nose, being the acting boss of the Bonanno family, he was questioning Dominick Cali, a captain of the Bonanno family, what Vinny Basciano's got going and the rest of the family, what they got going.
Q If I can direct your attention to the top of page 14, you state -- Basciano, excuse me, starts at the top of the page, he says, "Vinny, what is this guy asking for?"

Basciano says, "What is this guy asking me for?"

What do you understand him to be speaking about?
A He's talking about Dominick. Dominick sent a message to

him, why is Michael Nose questioning me.

Q And then in lines 5 through 7, you continue, "Bo, you can't say it's none of his business if, if it comes to La Cosa Nostra."

And you continue on line 9, "He has a right."

What did you mean by that?

A If you put him there as the acting boss, and you're not there, he has a right to question anybody in the family of what's going on in the family, Bonanno family.

Q And then you state on line 11, "If it's a legitimate business, no."

What did you mean by that?

A Somebody's got a legitimate business. You don't have to talk about it.

Q But if it's got something to do with the family?

A You got to put it on record.

Q If I could now direct your attention to the bottom of page 14, you again mention the name Randy.

Is this the same Randy you've been speaking about, Randy Pizzolo?

A Yes, it is.

Q If I can now direct your attention to page 15. Basciano states on lines 3 through 5, "I was up there when Randy was back. Listen, Randy worked for me, Bo. Randy didn't work for you."

What did you understand Basciano to mean by that?
A Trying to tell me that I'm not going to get pinched for conspiracy to murder Randy Pizzolo, that he worked for him, that he didn't work for me.
Q If I can now direct your attention to line 16 on page 15, Basciano states, "I'm going to fight them."
Who did you understand "them" to be a reference to?
A Talking about the government.
Q In what context?
A If he gets indicted, he's going to fight the case.
Q If I can now direct your attention to page 17.
MS. MERKL: This clip is not lengthy, your Honor, so maybe we'll play one more clip. Does that --
THE COURT: Go ahead.
MS. MERKL: -- conform with your schedule? Okay.
Page 17, line 9, clip 4.
(Audio played.)
Q (By Ms. Merkl) If I could direct your attention, Mr. Massino, to page 17, line 28.
You mention Joe Saunders and Dino and you continue on to speak about some kids getting pinched. In general terms, what are you speaking about in that portion of the conversation?
A Excuse me. What line is that?
Q Line 17, starting at about line 27, you mention a Joe

Saunders, and then you speak about his kids, and Dino and kids getting pinched.

Who are you, in general terms, what are you speaking about in that portion of the conversation?

A Joe Saunders worried about his kids getting pinched.

Q Directing your attention to the top of page 18, you state, "Oh, my son."

Who are you referring to when you say, "Oh, my son"?

A He's talking about Joe, Jr. He's a friend of ours in the Bonanno family.

Q Do you have any sons?

A No, I don't.

Q And then you continue to state, "They know about him cleaning up the blood. Sal gave it up. This and that."

When you say, "They know about him cleaning up the blood," what are you referring to?

A I'm talking about the government knows what happened.

Q Knows what happened in reference to what?

A Killing Boots' son in Joe Saunders, Sr.'s club.

Q If I can now direct your attention to the bottom portion of page 18, line 26 and 27, you mentioned Frankie DeCicco, who's Frankie DeCicco?

A Frankie DeCicco was an underboss in the Bonanno family.

Q You said in 1986, did something happened to Frankie DeCicco in 1986?

A They put a bomb in his car. When he went in the car, the car blew up. He got killed.
Q Do you know why?
A Yes.
Q Why?
A He betrayed his boss, Paul Castellano, to get killed.
Q That's the Paul Castellano murder you mentioned before?
A The boss of the Gambino family.
Q If I can now direct your attention to page 19, lines 23 through 25.

Basciano starts, "Because of this f'ing Louie, this mf'er," who did you understand him to be referring to when he said "this f'ing Louie"?
A He's talking about Big Lou, who's a captain in the Bonanno family, Big Louie.
Q He said, "I wanted to take off his clothes. They wouldn't let me though."

What did you understand Basciano to mean by "me"?
A Vinny Basciano was leary of -- he felt he was wearing a wire and he wanted to strip him.
Q Strip who?
A Big Lou.
Q Did you later find out whether, in fact, Lou was wearing a wire?
A Yes, he was.

Q If I can direct your attention to page 20, at the top of the page, Basciano starts, "This is different times, my friend." And you continue.

"You see, when you made the captain strip, I got feedback with that."

What were you referring to when you stated that "when you made the captain strip, I got feedback"?

A Vinny would call administration meet, maybe four, five captains would be there. He made all the captains strip and they resented that. They got naked.

Q I'm sorry?

A They got naked. He made them all strip and they resented that.

Q How did you learn about that?

A I got the message in MDC Brooklyn.

Q Did you have an understanding of why the captains were required to strip?

A He was leary of everybody wearing a wire.

Q If I could now direct your attention to the middle of the page, lines 18 through 20, Basciano states, "Me, too, but you know something, if I were to tell Louie to strip, guess what? We're not in a position right now."

What did you understand Basciano to mean by that?

A He's blaming Big Lou for his arrest.

Q He's blaming Big Lou for whose arrest?

A Vinny Basciano.
Q Directing your attention now to lines 23 to 25, Basciano continues, "I knew this guy was bad. I knew he was f'ing bad, this guy."
Who did you understand him to be referring to when he said he knew this guy was bad?
A He's talking about Big Louie Tartaglione, captain in the Bonanno family.
Q When he said he was bad, what did you understand him to be "bad"?
A Bad means he's a cooperator.
Q If I can now direct your attention to page 22, top of the page, Basciano mentions lines 3 and 4, "6,000 from the airports," what do you understand Basciano to be referring to there?
A I was getting money from the airport.
Q Is that the protection money you described yesterday?
A That was extortion money.
MS. MERKL: Your Honor, I have no further --
THE COURT: I'm sorry. Is there a difference between protection money and extortion money?
THE WITNESS: Yes, you're shaking them down, your Honor, for money.
THE COURT: So.
THE WITNESS: Extortion.

THE COURT: So protection is extortion?

THE WITNESS: Yes.

THE COURT: They're interchangeable terms?

THE WITNESS: Correct, your Honor.

MS. MERKL: Thank you, your Honor.

I have no further questions with regard to this clip.

THE COURT: All right. Let's take a 15-minute break.

All rise for the jury.

(Jury out at 4:30 p.m.)

THE COURT: Everybody may be seated. You may be seated, sir.

All right. Let me just inquire about how much longer will you be playing tapes and making inquiries of the witness in this regard?

MS. MERKL: Your Honor, we've made it to page 23 of this transcript, which is 81 pages. I tried to time it. It seems like it's going more slowly than I had anticipated with making sure everybody is on the right page and that kind of thing.

I do not know whether I will finish today, depending upon when your Honor chooses to end the court session.

THE COURT: Well, and if you don't finish today, and you complete it tomorrow morning, is that the end of your

examination?

MS. MERKL: It is.

THE COURT: All right. So we can anticipate that cross-examination will begin tomorrow morning at some time, either at the beginning of the day, or an hour or two into the day. Is that right?

MS. MERKL: That seems fair, your Honor.

THE COURT: I just want everyone to, you know, be ready.

All right. Let's take a 15-minute break, but first, the witness, I remind you not to discuss your testimony with anyone.

You're excused for 15 minutes.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: Oh, and the parties, 406T-1, is that being removed?

MS. MERKL: It was removed over the lunch break, your Honor.

THE COURT: So 405T-1 and 406T-1 are both removed?

MS. MERKL: Yes, your Honor.

Would you like me to take that copy?

THE COURT: Of course.

MS. MERKL: Okay.

THE COURT: Okay. Thank you, everyone.

We'll take a break.

(Recess taken at 4:31 p.m.)

(Continued on next page.)

THE COURT: All right. The sidebars that we had are going to be part of the transcript and available, so --

MS. MERKL: Fine, Your Honor.

THE COURT: All right?

MR. GOLTZER: Yes, sir.

THE COURT: Let's bring in the witness, please.

MS. MERKL: Your Honor, just in terms of timing --

THE COURT: Ahead.

MS. MERKL: I'm just curious about how long you plan to continue to.

THE COURT: About 15 to six.

MS. MERKL: Okay.

THE COURT: All right. Let's bring in the jury, please.

(Witness retakes stand.)

THE COURT: If we hit a convenient point to stop, you can just ask me whether it would be appropriate to recess at that point.

MS. MERKL: Very good, Your Honor. Thank you.

(Jury enters.)

THE COURT: Everyone may be seated.

I remind the witness that he's still under oath.

You may continue your examination of the witness.

MS. MERKL: Thank you, Your Honor.

THE WITNESS: Thank you.
BY MS. MERKL:
Q Mr. Massino, we left off on page 23.
A Correct.
Q And you have everybody find the page. And I'm going to start are start on page 23, playing clip five, which begins at line 18 of transcript 406T.
(Audio played in open Court.)
BY MS. MERKL:
Q Mr. Massino, if I can direct your attention to the bottom of page 24.
A (Peruses document.)
Q Lines 29 and 30, you inquire, "But whatever happened with the two every year." What were you referring to when you mentioned "the two every year"?
A In 1996, I had a meeting. And we put that in effect, two every year. Plus, the natural deaths. Say nobody dies for three or four years, you got nobody that dies, that means you can't put nobody in as a new member. So, to throw a bone we put two each for the whole five families.
Q You stated that you had a meeting in 1996? Who was your meeting with?
A I met with Genovese Family.
Q And when you suggested to put in two every year, put in two for what purpose?

A There was two extras every year, all five families.
Q Two extra what?
A To make two guys, to make two made guys in the family.
Q Direct your attention to the top of page 25. You continued to discuss with Basciano, he states, "I didn't go along with it." You state -- so now, Basciano replied, "John's people went along with it, the Lucchese mob went along with it." What did you understand Basciano to be referring to when he mentioned, "John's people"?
A John Gotti's people went along with it, with the two extra every year.
Q And what did John Gotti's people -- what family is that?
A Gambino Family.
Q And then Basciano continues, "The Lucchese mob went along with it." What did you understand him to mean by that?
A The Lucchese Family went along with two a year extra.
Q Basciano continues, "I told Dom. I went to see Dom. I went to see Dom." Who would you understand Basciano to be referring to in this portion of the conversation when he's referring to Dom?
A Dom is called Quiet Dom. He's a captain in the Genovese Family.
Q What, if any, position, in addition to the captain, did Quiet Dom have in the Genovese Family?
A He was on the panel with two other guys running the

Genovese Family.
Q You then replied, "Let me ask you another question, do we have anything to do with that?" What were you're referring to when you asked, "Do we have anything to do with that"?
A I made a motion, Quiet Dom's kid got killed. I said, "Do we have anything to do with that," and he said, "No."
Q And just to be clear for the record, the motion that you made?
A Was murders, Quiet Dom's son got murdered.
Q Just, please let the record reflect the witness is holding his hands in the shape of a gun.
Approximately when was Quiet Dom's son murdered?
A Maybe 2003.
Q And Basciano replied, "Absolutely not. Come on," and line 12. Then line 17 to 19, Basciano continued, "No, there was a beef with the kid. There was a physical beef with the kid, but it was a physical beef." What did you understand Basciano was referring to when he said there was a beef with the kid, which kid was there a beef with?
A Vinny Basciano's older son, Vinny, Jr., had a beef with Quiet Dom's son.
Q And then continuing on, line 22 to 23, Basciano replied that, "They came back to me and apologized. They apologized to me." What did you understand him to mean by that?
A That the Genovese Family, Quiet Dom's people came back

and apologized to Vinny Basciano.
Q In regards to what?
A The fight that his son had with Quiet Dom's son.
Q And then continuing on line 26, Basciano continued, "That came from Dom. That came from Dom." What did you understand him to mean by that?
A I understand that he's telling me Quiet Dom killed his son.
Q If I could now direct your attention to page 26.
A (Peruses document.)
Q On line 9, you mentioned an individual by the name of JoJo. Who you referring to?
A JoJo Caruso.
Q And what --
A He is the official consigliere of the Gambino Family -- Corazzo, excuse me.
Q If I could direct your attention to lines 12 through 17, you state -- Basciano states, excuse me, "He sent me names of ten guys. He sent me ten names." When Basciano said that, "He sent me the names of ten guys, who did you understand him to mean by that?
A When you send a list, you put the ten guys that you're going to make on the left side, and then you put the other ten on the right side. If they pass away, those are two extra a year, as long as it comes out the total of ten. You can make

ten guys.
Q And when you speaking about, "He sent me the names of ten guys," who did you understand had sent Basciano ten names?
A The Gambino Family.
Q Continuing on lines 15 through 17, Basciano continues, "There's a guy over here that they already replaced." What did you understand Basciano to mean by that?
A Some people, what they do is, you put one guy here and you put another guy here, that guy pass away, 1990. Three, four months from now, you'll do the same thing again, and you'll put the same guy that died in 1990, and you'll replace with another guy. So you put two people in for one dead.
Q So, you're using the same natural death to make two men instead of one?
A Correct.
Q And you reply with, "Pete was good for that." Who were you referring to when you mentioned Pete?
A Pete Gotti did it to me.
Q And who was Pete Gotti?
A He was the acting boss of the Gambino Family.
Q And Basciano replies with, "I said you're right. I went to Tony Megale. I said, 'Tony let me ask you a question.'" What did you understand Basciano to be referring to when he said he went to Tony Megale?
A I believe he's the underboss of the Gambino Family.

Q And he continues, Basciano continues at line 22, "You think because my pal's not here, I fell off an F-ing tree." What did you understand Basciano to be referring to when he said, "my pal"?
A He's talking about me.
Q Then on lines 24 through 26, Basciano states, "I says bring a list back. Bring it where you got to bring it. You already did these guys." What did you understand Basciano to mean by that?
A They put the same dead people. They put new guys to straighten out.
Q And what Basciano told you, "I says take the list back. Bring it where you got to bring it." What did you understand him to mean by that?
A He wouldn't accept the list. He sent it back to JoJo.
Q If I could now direct your attention to the bottom of the page, lines 32 and 34, Basciano continues, "So I sent the list back to them. Now, with all the rest of these guys, over here, Bo, we were having our way with them." What did you understand Basciano to mean by, "all the rest of these guys," on line 33, page 26?
A (Peruses document.) Talking about all the families.
Q Now continuing on page 27, the top page, lines 1 and 2, Basciano continues, "Because they can't deal with me, Bo." Who did you understand Basciano to be referring to when he

said, "they"?
A The other families.
Q If I could now direct your attention to lines 15 and 16, you and Basciano discuss somebody by the name of Sonny Franzese. And Basciano states, line 17, "official underboss." What were you speaking about in this portion of the conversation?
A Sonny Franzese just came home, and he was telling me they made him an official underboss.
Q What family?
A He's the Colombo Family.
Q If I could now direct your attention to page 28.
A (Peruses document.)
Q Lines 18 and 19, continue, "Why I can't believe that, with Sonny, he's on parole," and Basciano replies, "That's Nicky, met him as a -- as a -- as underboss." Who are you speaking of when you mentioned, "Sonny"?
A Sonny Franzese met Nicky Santora, which was a captain in the Bonanno Family, as official boss, underboss of the Colombo Family, Sonny Franzese.
Q Now, direct your attention to lines 24 and 25, Basciano mentioned somebody by the name of Tommy Shots. Who did you understand Basciano to be referring to?
A Tommy Shots is a captain from the Colombo Family and he was running the Colombo Family, he was on the panel.

Q Now, direct your attention to line 29, Basciano continues, "Dino was a caporegime with them." What did you understand him to mean by that?
A Guy by the name of Dino, he was on the panel with Tommy Shots running the family.
Q Which family?
A The Colombo Family.
Q If I could now direct your attention to page 29, line 14, you mentioned an individual by the name of Matty Madonna. Who were you referring to?
A Vic Amuso put Matty Madonna in charge of the Lucchese Family.
Q And line 22, you mentioned, "And he is running the show over there." When you asked "over there," what are you referring to?
A Running the show for the Lucchese Family.
Q Now, direct your attention to the top of page 30, you may have already identified this person. Line 2, Basciano states, "Vic Amuso." Just to be clear, who is Vic Amuso?
A Vic Amuso is the boss of the Lucchese Family.
Q And you continue on in lines 6 and 7 -- actually starting with line 3 you state, "He went to the hole the same day I went to the hole." Who were you referring to had gone to the hole?
A Vic Amuso went to hole in the afternoon and I went to the

hole at night.
Q And you continued to explain, "You know what he went to the hole for? Running the family from Atlanta Penitentiary." What did you mean by that.
A They had a bug in the visiting room and he was talking.
Q Who was talking?
A Vic Amuso, the boss of the Lucchese Family.
THE COURT: I'm sorry, where was this?
THE WITNESS: In Atlanta Penitentiary.
THE COURT: In the visiting room in Atlanta?
THE WITNESS: That's right.
THE COURT: All right. Thank you.
BY MS. MERKL:
Q I could now direct your attention to lines 25 and 26. Continue, "Now, when I hear that I might get pinched with conspiracy to murder, you know, now, you like to razzle-dazzle me." When you state you might get pinched for conspiracy to murder, what were you referring to?
A I was talking about Randy Pizzolo, that I might get pinched with conspiracy to murder.
Q Basciano replies, "No, no." What did you understand Basciano to mean?
A He's telling me that I'm not going to get pinched.
Q If I could direct your attention to the top of page 31, Basciano states, "I didn't mean to. We -- my intention was

Randy. Randy was just an F-up and I gave him a hundred chances." What did you understand Basciano to mean by that?
A He gave him a hundred chances before he murdered him.
Q If I could now direct your attention to line 5, you state, "But -- but you still can't do that without getting an okay from me." What were you referring to when you said, "You can't do that"?
A That you killed him on your own. You never got my blessings.
Q Now, I'd like to direct your attention to the middle of the page, line 19, and we'll continue with 56.
(Audio played in open Court.).
BY MS. MERKL:
Q If I could direct your attention to page 32?
A (Peruses document.)
Q Line 16 through 18.
A (Peruses document.)
Q Find the page?
A Yes, excuse me.
Q Line 16, on page 32, you state, "Tony went to follow me with Big Lou staying in Florida, we wouldn't have a problem." When you mentioned Tony who are you referring to?
A Talking about Tony Green, captain in the Bonanno Family.
Q You then mentioned Big Lou. Who are you referring to there?

A Big Lou is a captain in the Bonanno Family.
Q And you state, "If Tony were to follow me with Big Lou staying in Florida, we wouldn't have a problem." And Basciano replies, "No, I'm not here now."
What were you speaking about in this portion of the conversation?
A My policy was anybody that's on parole, stay away. We need you, I'll send somebody that's got no record where you don't get violated. You're more important to the borgata than being in jail.
Q And how did that -- what do you mean by that in reference to Big Lou?
A When I was in the street, Big Lou had a hard time to come to New York. So I was saying if Tony followed my policy, he's on parole, stay in Florida. Get off parole, come up. He didn't.
Q So, just to be clear, when you were on the street, Big Lou was on parole?
A Yes, he was.
Q Where was he living?
A Florida.
Q And when you said if Tony had followed you with Big Lou, had Big Lou stayed in Florida, we wouldn't have a problem, what problem were you referring to?
A That he wore a wire.

Q And when Basciano stated, "No, I'm not here now," what did you understand him to mean?
A If Big Lou were to have stayed in Florida, Vinny Basciano wouldn't be in jail today.
Q And I now direct your attention to page 33. Top of the page, Basciano states, "You know what I took advantage of? All these guys want to stay home. I came out. I came out. I says, listen to me. There's one way to leave this thing."
What did I understand Basciano to mean by "I came out"?
A He came out and ran the family.
Q And when he stated, "There's one way to lead this thing," what did you understand him to be referring to by "this thing"?
A As the boss of -- acting boss of the Bonanno Family, you got to be out there to run it.
Q Direct your attention now to line seven, Basciano states, "I said I was born to this life."
What did you understand him to mean by that?
A That he was a natural for the mob, he was born for the life.
Q If I could now direct your attention to lines nine through 11, Basciano continues, "I'm a hoodlum. I'm a tough guy. I ain't sitting on my F-ing couch. Whatever happens, happens, let's go."

What did you understand Basciano to mean by that?
A That he's not going to stay home and sit on the couch, he's going to get out on the street and do what he's got to do.
Q I now direct your attention to line 16 -- actually 14, begin, "You can't get stupid, either. You got to be smart. That's why, see, I always tell you this is not always the answer."
What were you referring to when you said "this"?
A When I said "this is not always the answer," meaning murdering people, clipping anybody, I made a point like a gun. "This is not always the answer."
Q Just to be clear, when you were speaking with Basciano, did you make that same hand gesture?
A Yes, I did.
MS. MERKL: Let the record reflect the witness is making a motion with his hand in the shape of a gun.
THE COURT: Very well.
BY MS. MERKL:
Q If I could now direct your attention to lines 24 and 25, Basciano states, "We would have taken over the world, you and me, Bo."
What did you understand Basciano to mean by that?
A He's telling me if I was out there, and him, we both taking over the world.

Q What world?
A The mob.
Q If I could now direct your attention to line 28, you mentioned, "You would have made -- you just chased Randy."
Who are you referring to when you mentioned Randy?
A Randy Pizzolo.
Q If I could now direct your attention to line five and six, Basciano stated, "He started to be embarrassing for us, Bo, you know."
A Excuse me. What page?
Q I'm sorry, page 34 lines five and six.
Basciano stated, "He started to be embarrassing for us, Bo, you know."
What did you understand Basciano to be referring to?
A He's trying to justify why he killed Randy Pizzolo. He was embarrassing the whole Bonanno Family.
Q Then you start at line nine, "But you -- what the bad part is, we don't want the other people to think our people."
Line 11 when you said "our people," who were you referring to?
A Talking about the Bonanno Family.
Q And you continue on line 13, that "Vinny's kill crazy," and Basciano states, "Right."
What did you mean by that?
A I didn't want my captains to think that Vinny is kill

crazy.
Q What do you mean by "kill crazy"?
A That you got a bug in your ass, you want to kill somebody tomorrow, you're going to kill them.
Q If I could now direct your attention to page 35, lines 11 and 12, Basciano states, "I sent the message. That you're aware of it."
When Basciano stated that he sent a message, what did you understand him to mean?
A (Peruses document.)
Q Lines 11 and 12 on page 35.
A That they sent a message out.
Q Out of where?
A Out of jail. He sent it to Dominick.
Q And when he stated that "You're aware of it," who did you understand him to be referring to?
A That I'm aware of the message this he sent out.
Q If I could now direct your attention to the line 21, you state, "Maybe because of Randy, you know what many he thinks? Maybe he thinks he knows that you killed him, you didn't track with him. And Basciano states, "Me check with him?"
Who are you speaking about in this portion of the conversation?
A In other words, what I'm telling him, maybe Michael Nose, he knows that you killed Randy Pizzolo. There's a panel that

has three of youse there. You got to murder somebody, you all three got to agree. You can kill on your own, now you're going to spook the other two guys. If they start killing on their own, what do you got? Nobody's checking with nobody.

Q When Basciano replied with, "Me check with him," what did you understands him to mean?

A That he's the boss.

Q Who's the boss?

A Vinny Basciano.

Q When he said "Me check with him, who's the "him"?

A He's talking about Michael Nose, acting boss.

Q If I could now direct your attention to page 36.

A (Peruses document.)

MS. MERKL: Your Honor, this clip is somewhat lengthy, this next clip. Your Honor?

THE COURT: Go ahead.

MS. MERKL: This clip is somewhat lengthy. I'm just not sure how late did Your Honor intend keep the jurors?

THE COURT: Do you think between the clip and the questions following it we'll go more than half an hour?

MS. MERKL: I doubt it, Your Honor, we're happy to proceed.

THE COURT: Well.

MS. MERKL: I just wasn't sure how late you were planning to sit, so.

THE COURT: Let's see how far you get. We can always finish the Q and A tomorrow if you're going too far.

MS. MERKL: Thank you, Your Honor.

BY MS. MERKL:

Q Starting on page 36, line four, clip seven.

(Audio played in open court.)

BY MS. MERKL:

Q If I could direct your attention back to page 36, please.

A (Peruses document.)

Q Top of the page, line four, you have the line?

A Yes, I do.

Q Basciano states, "All I know is, he needs experience, but he's going to sit down because he's a former tough guy."

Based on your understanding of the context of the conversation, who did you understand Basciano was to be referring to when he said, "he needs experience," who is the "he"?

A I believe it's Michael Nose.

Q And when you say "Because you put him there," what were you referring to?

A He put Michael Nose as acting boss of the Bonanno Family.

Q If I could now direct your attention to line 22, you mention Jerry. Who are you referring to when you mention Jerry?

A Jerry Asaro, he's a captain in the Bonanno Family.

Q If I could now direct your attention to line 28 and 29, you mention, "And I was maybe considering Joe C's kid." What did you mean by that?
A I was thinking of putting Joe C's kid, Junior, there on the panel.
Q If I could now direct your attention to page 37, line 15. Basciano mentioned, "Vic sent me a message."
Who did you understand Basciano to be referring to in this portion of the conversation when you're talking about Vic?
A Vic Juliani, my private investigator.
Q I direct your attention to line --
MR. JASPER: Excuse me, Your Honor, could we have a time of day on that message?
BY MS. MERKL:
Q Mr. Massino, do you have the approximate time frame in which you -- in which -- well, to be clear, Basciano was saying "Vic sent me a message." Do you know exactly what message he's referring to?
A Yes, I do.
Q And do you have an understanding of approximately when that message was sent?
A No, I don't because I never sent that message.
Q If could I direct your attention to lines 19 and 20, Basciano states, "Juliani, he told me that you put me there

and that the commission approved me."

What did you understand Basciano to mean by that?

A He was trying to tell me that I gave Vic Juliani the message to give to him that the commission approved him, which is crazy. There ain't no commission, and I never said that.

Q So when you state there ain't no commission, what do you mean by that?

A The last commission meet had I was at in 1985 in November. When Paul Castellano got killed in December of 1985, there was never another commission meeting there.

Q There were no additional formal meetings of the commission after that date?

A No more commission.

Q Did the bosses of the five families usually confer on organized crime policy after that date?

A Yes, they did.

Q When was the last time you attended such a meeting?

A I called everybody together in the year of 2000.

Q Who attended that meeting?

A I told then I want one of you to come from each family. And if you're can make a decision, don't come to that meeting.

Q Who attended?

A Louie Bagels, the boss of the Lucchese Family, Pete Gotti, the acting boss of the Gambino Family, Joe Waverly, the consigliere of the Colombo family, Skinny Larry, he was a

captain on the panel of the Genovese family, and me, the boss of the Bonanno Family.

Q And that meeting, the last one you attended was in what year?

A Excuse me?

Q The meeting that you attended with those individuals was in what year?

A 2000, January of 2000.

Q If could I now direct your attention to page 38. Basciano states, lines ten through 12, "You know what I look like now, I go around under auspices of you thinking I'm the guy I'm introducing."

You state, "You was running everything then."

Basciano says, "Now I'm introducing as the acting boss."

What did you understand him to mean by that?

A What he's trying to say is he was worried about maybe I was going take him down, and he was putting himself as acting boss with my blessings and the commission's blessings, which never happened.

Q So just to be clear, you never sent a message to the commission to approve Basciano as acting boss?

A There ain't no commission.

Q So you never sent that message?

A Absolutely not.

Q If I could now direct your attention to page 39.
A (Peruses document.)
Q In the middle of the page, you begin, "I asked that, you know, for eight years, I told that to Joe, Petey Rabbit and Tony Green."
The reference to eight years, just to be clear, what is that a reference to?
A I put into position you have to be around somebody that put you up for eight years, not because this guy knows somebody for eight years, no, no, no. You putting him in, he's got to be around you for eight years for you to propose him.
Q And then you continue, "You can't make no captains and you can't -- you got to a break a captain, all three of you have got to agree."
What were you explaining at that point?
A At that point, Vinny Basciano was doing whatever he wanted, break captains, make captains. He didn't inquire nothing with nobody else. He disregarded the panel.
Q And then you continued, "And none of this." What were you referring to?
A None of this.
THE COURT: I'm sorry?
THE WITNESS: I'm sorry, Your Honor. "None of this." I made a hand gesture.

THE COURT: The hand gesture is of a gun, is what the witness made just now.

Go ahead.

BY MS. MERKL:

Q During your conversation with Basciano, did you make the same gesture?

A I did it numerous times.

Q But at this point in the conversation, when you were actually with Basciano, did you make the same hand gesture?

A Yes, I did.

Q Continuing on lines 19 through 21, you state, "Because once they start this here, you know, if it's warranted, it's one thing."

What did you mean by that?

A I did the same thing. Gesture with the -- once you start this, here, it's no good.

MS. MERKL: Just to be clear, the witness is again gesturing with his hands.

THE WITNESS: When I go like this, "none of this." (Gesturing.)

BY MS. MERKL:

Q If I could direct your attention to lines 27 and 28, Basciano states something about Ronnie Mozzarella.

Who is Ronnie Mozzarella?

A Ronnie Mozzarella was a wiseguy in the Bonanno Family.

Q Now direct your attention to page 40, line 12, Basciano mentioned an individual by the name of Tommy.

Who did you understand him to be referring to by Tommy in this portion of the conversation?

A Tommy's a wiseguy in the Bonanno Family, and he's in Vegas.

Q And he also mentioned an Armando, who did you understand Basciano to be referring to when he mentioned Armando?

A Armando is a wiseguy, and he's in Vegas. Of the Bonanno Family.

Q If I could now direct your attention to the passage in line 17 through 28, Basciano mentioned the Johnny Joe, who did you understand him to be referring to?

A (Peruses document.)

Q The Johnny Joe references on line 26.

A (Peruses document.) Johnny Joe. He's a made member of the Bonanno Family.

Q If I could now direct your attention to lines 32 through 34 continuing onto page 41, Basciano starts at line 32 of page 40, "Well, I think I have a problem living in the same world with this guy, you tell me who me who." Continuing onto the next page.

Who did you understand Basciano to be referring to if he a problem living in the same world with?

A Patty DeFilippo, captain in the Bonanno Family.

Q Prior to this conversation, had Mr. Basciano requested anything of you with regard to Patty DeFilippo?
A Yes.
Q What did he request?
A And I got to him that Patty DeFilippo wouldn't bother him.
Q Prior to this conversation, had Basciano made any requests of you with regard to Patty?
A He wanted to jocko Patty. He wanted to kill Patty DeFilippo, the captain in the Bonanno Family.
Q If could now direct your attention to page 45.
A (Peruses document.)
Q Line 14, Basciano mentioned an individual by the name of Louie. Who did you understand Basciano to be referring to when he mentioned Louie.
A Big Lou. He was a captain in the Bonanno Family.
Q And when Basciano mentioned, "Louie would have been circulating amongst the other families," what did you understand Basciano to mean?
A He was wearing a wire and eventually, he went around to the other mob families, wired up.
Q And when Basciano says, "There's four hundred F-ing pinches. He brings down the whole F-ing borgata, what did you understand Basciano to mean by that?

A He's saying if you leave Big Lou out there, the captain in the Bonanno Family for a couple of years, he'll get four hundred guys pinched in the five families in the New York.
Q So in that context, pinched means what?
A Arrested.
Q If I could now direct your attention to page 46, starting on line one, you mentioned, "He went bad there right away." You continued to speak about an individual who had gone bad. Who are you referring to in this portion of the conversation?
A I'm referring to my brother-in-law, Sal Vitale, the underboss of the Bonanno Family.
Q Lines five through seven, Basciano stated, "He gave them ten murders that they didn't know about." What did you understand him to mean when Basciano said "they"?
A My brother-in-law, Sal Vitale, the underboss, he gave them ten murders.
Q Who is "them"?
A The prosecutors.
Q And in the context in which he gave them the ten murders, what was Sal doing?
A What was he doing?
Q Yes.
A He giving the order to murder people.
Q All right. But who -- when you say he gave them ten murders, how did Sal give the government ten murders?

A Murders that he was involved in, he told them the place, who got killed.
Q What decision did Sal Vitale make after his arrest?
A He flipped.
Q If I could now direct your attention to lines 13 through 15. Basciano states, "The sad part is, you're f'ing here. You don't deserve it. You're too good of a man. You did too much for us, Bo." What did you understand Basciano to mean when he said, "You did too much for us"?
A He's talking about me, that I don't deserve being in here.
Q Being where?
A I was in prison.
Q And when he said, "For us," what did you understand him to mean?
A For the borgata, for the family, for the Bonanno Family.
Q If could I now direct your attention to page 47, line 17, through 20, you mention, "I could have killed him, took him down or babysitted him, and that's what I did. So I had no proof. I babysitted him."
Basciano replied with, "Who, Sal?" What were you and Basciano discussing in this portion of the conversation?
A When I came home, before I made him the underboss, I thought about it. I had three choices: kill him, take him down or babysit him. And I choose to babysit him.

Q What did you mean by "babysit"?
A Don't do nothing, just forget about it.
Q Don't do nothing with regards to what?
A Taking him down, killing him. I just left him there.
Q Left him as underboss?
A I'm going above one day. He said, "I'm going to watch him."
Q When you say, "I had no proof," what were you referring to?
A I had no proof that he was a cooperator.
Q And that's the same Sal that later became a cooperator?
A Yes.

MS. MERKL: Your Honor, I have no further questions with regard to clip seven.

THE COURT: All right. Let's --

MS. MERKL: Might be a good time.

THE COURT: Yes. Let's suspend here.

All right. First of all, members of the jury, you can leave your binders on your chairs. Take your notes with you and leave them in the jury deliberation room. And they'll be returned to you tomorrow morning.

I want to you remind you that you should not discuss this case with anyone. Don't discuss it among yourselves.

And do not visit any location identified during the course of testimony. Do not attempt any research or make any

other efforts to review this case or anyone involved in the case on the internet.

You remember my more detailed instructions several times before, so I'm not going to go through every forum of electronic opportunity with you.

So I thank you for your attention. We'll see you tomorrow morning at 9:30.

All rise for the jury.

(Jury exits.)

THE COURT: All right. I remind the witness that you should not discuss his testimony with anyone. You're excused for the evening. We'll see you tomorrow morning at 9:30.

THE WITNESS: Thank you, sir.

THE COURT: You're welcome.

(Witness exits.)

THE COURT: Please be seated, everybody.

All right. Just a few things. Again, I'm going to request that there be no communication with the outside world from this courtroom by anybody.

If anyone in the media wants to use laptops, take notes or draft something, I have no problem with that. If you want to send messages, all you have to do is leave the room. I have no problem with that whatsoever.

But the person -- one of the persons -- one of the

judges who made herculean efforts to bring PDAs and cell phones into the courthouse for counsel -- you know, I'm somewhat sensitive about going beyond where we agreed to go with respect to the availability of electronic devices, inside the courtroom. So I really do appreciate everyone's cooperation in this regard.

And if you have any questions, you can discuss it with my courtroom deputy, and he'll try to get an answer to you as to any other type of contraption that you might want to use.

Are there any -- is there anything else from the government this afternoon?

MS. MERKL: No, Your Honor.

Just so that Your Honor is aware for scheduling purposes, we did confer with the defense. It sounds as if Mr. Massino will be needed for the full day tomorrow. So at this juncture, the government is -- will likely have a law enforcement witness on standby if needed, but it doesn't appear that we're going to be moving beyond Mr. Massino's testimony.

THE COURT: I wouldn't bring anyone else.

MS. MERKL: Okay. Thank you, Your Honor.

THE COURT: If cross-examination and any redirect should end before 6 p.m. tomorrow, we'll just recess for the weekend and --

-- now, Mr. Jasper do you have a sense of whether you're going to need this witness on Monday, as well?

MR. JASPER: I think so, Your Honor.

THE COURT: So there you go.

MS. MERKL: Your Honor, I've advised the marshals that that is a possibility and, you know, we certainly will accommodate whatever Mr. Jasper needs to conduct his cross-examination.

THE COURT: Okay. Anything from you, Mr. Goltzer?

MR. GOLTZER: No thank you, Judge.

THE COURT: Anything else? Okay.

MS. MERKL: No.

THE COURT: Thank you very much, everybody. We see you tomorrow morning at 9:30.

MS. MERKL: Thank you, Your Honor.

MR. GOLTZER: May I ask you a question Judge?

THE COURT: Go back on the record.

Mr. Goltzer?

MR. GOLTZER: I have a computer which I haven't brought yet that has a legal research capability for Westlaw by using a modem. Is that against your rules? If it is, I wouldn't use it.

THE COURT: I haven't thought about it.

MR. GOLTZER: Okay.

THE COURT: It's a new wrinkle.

MR. GOLTZER: It's got a modem.

THE COURT: I understand exactly what you're talking about. It sounds like it's okay, but let me think about it overnight.

What I was talking about is communication,

MR. GOLTZER: Email?

THE COURT: Email-type communication between someone in this courtroom, and someone in the, you know, outside world, so to speak.

MR. GOLTZER: My computer will have that capability but if Your Honor directed me not to email --

THE COURT: Well, I'm asking -- I'm directing everybody not to email. That includes counsel.

MR. GOLTZER: That's why I asked the question.

THE COURT: If you want the go and email, all you have to do is go outside. I just don't want -- I don't want a situation where everyone is sitting in the gallery with a PDA, and the jury is looking at everybody in the gallery with PDAs, and making it appear that people are not paying attention.

MR. GOLTZER: Anything --

THE COURT: And -- and also, frankly, I don't know whether these devices are recording devices, as well. I mean, if you want to take it to the extreme, I'll just ban everything, because it might have a recording device or a transmitting device for the sound from this courtroom. But I

don't want to go there. I'm just trying to maintain a certain decorum. That's all.

MR. GOLTZER: The reason I ask is nothing we would do at counsel table would have anything to do with other than this case and being counsel.

THE COURT: I understand that. I'm trying I'm trying to have a standards. All right? I'll let you know.

MR. GOLTZER: We'll accommodate anything Your Honor wants us to do.

THE COURT: Thank you. Have a good night.

(Trial adjourned to April 14, 2011, at 9:30 a. m.)

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